

Professional Liability Insurance

CLINIC PURCHASING GROUP POLICY

For clinics



Important

This policy does not become effective unless a declarations page and applicable endorsements are issued to form a part of it.

The insurance provided by this policy is contained in multiple coverage sections. Some coverages are provided on a "claims made" basis. Other coverages are provided on an "occurrence" basis. Where coverage is provided on a claims made basis, claims coverage is limited to liability for only those claims resulting from medical incidents which happened on or after the applicable Retroactive Date specified on the declarations page and which are first reported to NORCAL while the policy is in effect.

This policy requires arbitration of disputes with NORCAL.

Please review this policy carefully and discuss the coverage with your lawyer, risk management consultant, insurance adviser, agent or broker.

WHAT TO DO IN CASE OF A CLAIM OR ADMINISTRATIVE PROCEEDING

In the event an Insured directly or indirectly becomes involved in any situation which an Insured believes may result in a Claim or Administrative Proceeding while covered under this policy, You should immediately report the details to the NORCAL Mutual Insurance Company Professional Claims Department.

Telephone: (800) 416-0791 (toll free)
(415) 397-9700

Mailing Address: NORCAL Mutual Insurance Company
560 Davis Street, Suite 200
San Francisco, CA 94111-1966
Attn: Professional Claims Department

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NORCAL MUTUAL INSURANCE COMPANY
CLINIC PURCHASING GROUP
INSURANCE POLICY

THIS POLICY IS NON-ASSESSABLE

PART I POLICY INTRODUCTION

The insurance provided by this policy is contained in multiple coverage sections. Some coverages are provided on a "claims made" basis. Other coverages are provided on an "occurrence" basis.

This policy is provided based on the statements, representations and agreements made in an application, updated application or other written statement or communication that an Insured supplies or that is supplied on behalf of an Insured. In reliance upon the above information and subject to all the terms and conditions of this policy, We agree to provide the insurance coverage described in this policy.

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine the rights and duties of an Insured, and what is covered and is not covered. We will not pay sums or perform acts or services unless explicitly provided for in this policy.


The words We, Us and Our refer to NORCAL Mutual Insurance Company. Other words and phrases that are underlined have special meaning. Refer to the Definitions section for their meanings.

This policy is not effective unless a declarations page and applicable endorsements are issued as part of the policy.

IN WITNESS WHEREOF: NORCAL Mutual Insurance Company has caused this policy to be signed by its President and Secretary at San Francisco, California.



James Sunseri
President



Katherine H. Crocker
Secretary

PART II COVERAGES

In consideration of the payment of premium, NORCAL Mutual Insurance Company agrees as follows:

COVERAGE A: Professional Liability Insurance – Claims Made

THIS INSURANCE IS PROVIDED ON A CLAIMS MADE BASIS.

A. INSURING AGREEMENTS

1. **Indemnity.** We will pay on behalf of an Insured all sums, up to the limits of liability shown on the declarations page or applicable endorsement, that an Insured shall become legally obligated to pay as Damages because of injury caused by a Medical Incident directly resulting from Professional Health Care Services or Professional Committee Activities:
 - a. That takes place within the Coverage Territory; and
 - b. That takes place on or after the applicable Retroactive Date and before the expiration or termination date of this policy or applicable coverage; and
 - c. That results in a Claim first made against an Insured during the Policy Period and is first reported to Us during the Policy Period.
2. **Defense.** We shall have the right and duty to defend an Insured against any Claim because of injury caused by a Medical Incident directly resulting from Professional Health Care Services or Professional Committee Activities:
 - a. That takes place within the Coverage Territory; and
 - b. That takes place on or after the applicable Retroactive Date and before the expiration or termination date of this policy or applicable coverage; and
 - c. That results in a Claim first made against an Insured during the Policy Period and is first reported to Us during the Policy Period.

We have the exclusive right, using counsel of Our choice, to investigate, negotiate and defend any Claim. Our duty to defend ends, however, when the limits of liability shown on the declarations page or applicable endorsement have been exhausted by payment of judgments and/or settlements.

Defense Costs are payable in addition to the limits of liability shown on the declarations page or applicable endorsement for Professional Liability Insurance.

We may investigate any Claim as We deem appropriate. We shall not be liable for the cost of legal services and other costs or fees incurred by an Insured without Our written consent. We shall not be liable for the cost of any legal services and other costs or fees incurred before Our written receipt of notice of Claim.

B. WHO IS INSURED

In addition to those persons or organizations included within the definition of Insured, each of the following is an Insured to the extent set forth below, subject to Common Condition Q., “Other Insurance:”

1. Employees, Authorized Volunteer Workers, contracted workers and students while acting within the course and scope of their duties for You.
2. This policy provides coverage for You or Your Health Care Extenders, interns, externs, residents, dentists, osteopathic or other medical doctors when such professionals are endorsed onto this policy.
3. Any member of a duly authorized board or any committee of the Named Insured while acting within the course and scope of their duties for the Named Insured.
4. Any person communicating information to the Named Insured or its medical or professional staff for the purpose of aiding in the evaluation of Professional Health Care Services or the qualifications, professional competence, fitness or character of an applicant for membership or privileges on such medical or professional staff, but only while acting within the course and scope of their duties for the Named Insured.
5. Any administrator or department head while acting within the course and scope of their administrative duties for the Named Insured; however, coverage does not apply to the rendering of Professional Health Care Services.

C. EXCLUSIONS

1. **No Defense or Payment of Damages.** In addition to the Common Exclusions in PART VI of this policy, We will not defend nor pay Damages because of Claims that result from any of the following:
 - a. Any liability from an Occurrence.
 - b. Any liability for Advertising Injury or Personal Injury. However, this exclusion does not apply to liability arising from the rendering of, or failure to render, Professional Health Care Services.
 - c. Any liability from the Administration of Your Employee Benefits Program.
 - d. Any fees or costs associated with an Administrative Proceeding.
 - e. Any liability arising from a Medical Incident that took place while the license to practice medicine or the certification of the individual responsible for providing Professional Health Care Services or Professional Committee Activities was not in effect. This exclusion does not apply to the Named Insured.

- f. Any liability arising from a Medical Incident involving the prescription, dispensing or furnishing of controlled substances that happened while the license or registration to prescribe, dispense or furnish such controlled substances issued to the individual responsible for providing Professional Health Care Services was not in effect. This exclusion does not apply to the Named Insured.
 - g. Any liability arising from a Medical Incident that took place on or after the date of an involuntary declination, restriction or reduction of privileges (except for temporary restriction due to incomplete medical records), or of a punitive or disciplinary observation, proctorship, preceptorship or required consultation that an Insured has not reported to Us immediately in writing.
 - h. Any liability arising from a Medical Incident involving the fraudulent creation, alteration or modification of the medical record of any person. However, under Coverage A, Professional Liability Insurance:
 - 1. We will defend any Claim involving the fraudulent creation, alteration or modification of the medical record of any person. However, the Insured who allegedly committed the fraudulent creation, alteration or modification of the medical record will reimburse Us for those Defense Costs if liability for the fraudulent creation, alteration or modification is admitted or determined by judgment or any other way.
 - 2. We will pay Damages on behalf of any Insured, other than the Insured who was responsible for the fraudulent creation, alteration or modification of the medical record of any person, unless that other Insured:
 - a. Knew or should have known about the fraudulent creation, alteration or modification of the medical record but failed to prevent or stop it; or
 - b. Knew or should have known that the Insured who committed the fraudulent creation, alteration or modification of the medical record had a prior history of or propensity for such actions.
 - i. Any liability arising from a guarantee of the results of any Professional Health Care Services or Professional Committee Activities.
2. **No Payment of Damages – Defense Only.** In addition to the Common Exclusions in PART VI of this policy, We will not pay Damages, but will defend any Insured because of Claims that result from any of the following:
- a. Any liability arising from an Insured's authorship of an article or paper relating to the technical aspects of an Insured's practice of medicine for a recognized technical or professional publication.
 - b. Any liability for Personal Injury resulting from an Insured's participation in Professional Committee Activities.

D. **CONSENT TO SETTLE**

1. We will not settle any Claim against the Named Insured under this Professional Liability Insurance without the written consent of the Named Insured. The Named Insured's Authorized Representative is the person responsible for providing Us with a decision on consent for the Named Insured.
2. We will not settle any Claim against an Insured physician without his/her written consent.
3. This requirement will not void any settlement entered into without the written consent of the Insured. The requirement of the written consent can be waived in writing by an Insured and Us.
4. If We recommend settlement of a Claim, the recommendation will be based on consideration of all circumstances surrounding the Insured's potential liability. The Named Insured and/or an Insured physician agree to give careful consideration to Our recommendation. We do not, however, have a duty to recommend settlement of a Claim.
5. If We recommend settlement of a Claim and the Named Insured and/or an Insured physician disagree, then the Named Insured and/or an Insured physician or We may refer the matter to a peer review committee acceptable to both parties. The decision of such committee will be binding.

COVERAGE B: Health Care General Liability Insurance – Occurrence

THIS COVERAGE IS PROVIDED ONLY IF INDICATED ON THE DECLARATIONS PAGE OR A SUBSEQUENT ENDORSEMENT. THIS COVERAGE APPLIES ON AN OCCURRENCE BASIS.

SECTION I: Coverages and Exclusions

I. BODILY INJURY, PROPERTY DAMAGE and FIRE DAMAGE LIABILITY

A. INSURING AGREEMENTS

1. **Indemnity.** We will pay on behalf of an Insured all sums, up to the limits of liability shown on the declarations page or applicable endorsement, that an Insured becomes legally obligated to pay as Damages because of a Claim for Bodily Injury, Property Damage or Fire Damage caused by an Occurrence if the:
 - a. Bodily Injury, Property Damage or Fire Damage is caused by an Occurrence that takes place in the Coverage Territory; and
 - b. Bodily Injury, Property Damage or Fire Damage takes place during the Policy Period.
2. **Defense.** We shall have the right and duty to defend an Insured against any Claim for Bodily Injury, Property Damage or Fire Damage caused by an Occurrence if the:
 - a. Bodily Injury, Property Damage or Fire Damage is caused by an Occurrence that takes place in the Coverage Territory; and
 - b. Bodily Injury, Property Damage or Fire Damage takes place during the Policy Period.

We have the exclusive right, using counsel of Our choice, to investigate, negotiate and defend any Claim. Our duty to defend ends, however, when the limits of liability shown on the declarations page or applicable endorsement have been exhausted by the payment of judgments and/or settlements.

Defense Costs are payable in addition to the limits of liability shown on the declarations page or applicable endorsement for Health Care General Liability Insurance.

We may investigate any Claim as We deem appropriate. We shall not be liable for the cost of legal services and other costs or fees incurred by any attorney selected by an Insured without Our written consent. We shall not be liable for the cost of any legal services and other costs or fees incurred before Our written receipt of notice of Claim.

This insurance does not apply and We have no duty to defend any Insured against any Claim seeking Damages for Bodily Injury, Property Damage or Fire Damage that Manifests prior to the effective date of this policy, even if the Damages continue into this Policy Period.

B. EXCLUSIONS

No Defense or Payment of Damages. In addition to the Common Exclusions in Part VI of this policy, We will neither defend nor pay Damages because of Claims that result from any of the following:

1. Any liability arising from a Medical Incident.
2. Any liability arising from the Administration of Your Employee Benefits Program.
3. Any fees or costs associated with an Administrative Proceeding.
4. Any liability arising from Bodily Injury, Property Damage or Fire Damage expected or intended from the standpoint of an Insured. However, this exclusion does not apply to Bodily Injury resulting from the use of reasonable force to protect persons or property.
5. Any liability arising from Bodily Injury, Property Damage or Fire Damage for which any Insured may be held liable by reason of:
 - a. Causing or contributing to the intoxication of any person;
 - b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - c. Violation of any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.
6. Any liability arising from Bodily Injury, Property Damage or Fire Damage arising from the ownership, maintenance, use or entrustment to others of any aircraft, Auto or watercraft owned or operated by or rented or loaned to any Insured. Use includes operation and Loading or Unloading.

This exclusion applies even if the Claims against any Insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that Insured, if the Occurrence which caused the Bodily Injury, Property Damage, or Fire Damage involved the ownership, maintenance, use or entrustment to others of any aircraft, Auto, or watercraft that is owned or operated by or rented or loaned to any Insured.

This exclusion does not apply to:

- a. Parking an Auto on premises an Insured owns or rents, provided the Auto is not owned by or rented or loaned to an Insured;
- b. Maintenance or use of any Mobile Equipment, except Bodily Injury, Property Damage or Fire Damage arising from:
 - i. The transportation of Mobile Equipment by an Auto owned or operated by or rented or loaned to any Insured; or

- ii. The use of Mobile Equipment in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.
7. Any liability arising from Property Damage or Fire Damage to:
 - a. Property an Insured owns, rents or occupies;
 - b. Premises an Insured sells, gives away or abandons, if the Property Damage or Fire Damage arises out of any part of those premises;
 - c. Property loaned to an Insured;
 - d. Personal property in an Insured's care, custody or control;
 - e. That particular part of real property on which an Insured, or any contractors or subcontractors working directly or indirectly on behalf of an Insured, are performing operations, if the Property Damage or Fire Damage arises out of those operations; or
 - f. That particular part of any property that must be restored, repaired or replaced because an Insured's Work was incorrectly performed on it.

Paragraph (a) of this exclusion does not apply to Fire Damage.

Paragraph (b) of this exclusion does not apply if the premises are an Insured's Work and were never occupied, rented or held for rental by an Insured.

Paragraphs (c), (d), (e) and (f) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (f) of this exclusion does not apply to Property Damage or Fire Damage included in the Products-Completed Operations Hazard.

8. Property Damage or Fire Damage to an Insured's Product arising from it or any part of it.
9. Property Damage or Fire Damage to an Insured's Work arising from it or any part of it and included in the Products-Completed Operations Hazard.

This exclusion does not apply if the damaged Work or the Work from which the damage arises was performed on behalf of an Insured by a subcontractor.

10. Any liability arising from Property Damage or Fire Damage to Impaired Property from:
 - a. A defect, deficiency, inadequacy or dangerous condition in an Insured's Product or an Insured's Work; or
 - b. A delay or failure by an Insured or anyone acting on behalf of an Insured to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising from sudden and accidental physical injury to an Insured's Product or an Insured's Work after it has been put to its intended use.

11. Any liability arising from Damages claimed for any loss, cost or expense incurred by an Insured or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- a. An Insured's Product;
- b. An Insured's Work; or
- c. Impaired Property:

if such Product, Work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

12. Any liability arising from Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access or inability to manipulate electronic data.

As used in this exclusion, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

13. Any liability arising from Bodily Injury, Property Damage or Fire Damage arising out of any act or omission that violates or is alleged to violate:

- a. The Telephone Consumer Protection Act (TCPA) including any amendment of or addition to such law;
- b. The CAN-SPAM Act of 2003, including any amendment or addition to such law; or
- c. Any other statute, ordinance or regulation that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

II. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY

A. **INSURING AGREEMENTS**

1. **Indemnity.** We will pay those sums, up to the limits of liability shown on the declarations page or applicable endorsement, that an Insured becomes legally obligated to pay as Damages because of a Claim for Personal Injury or Advertising Injury if that:
 - a. Personal Injury is caused by an offense directly resulting from an Insured's business, excluding advertising, publishing, broadcasting or telecasting done by or for an Insured; or
 - b. Advertising Injury is caused by an offense committed in the course of advertising an Insured's goods, products or services:

but only if the offense was committed in the Coverage Territory and during the Policy Period.

2. **Defense.** We shall have the right and duty to defend an Insured against any Claim for Advertising Injury caused by an offense committed in the course of advertising an Insured's goods, products or services or Personal Injury caused by an offense directly resulting from an Insured's business that takes place:
 - a. In the Coverage Territory; and
 - b. During the Policy Period.

We have the exclusive right, using counsel of Our choice, to investigate, negotiate and defend any Claim. Our duty to defend ends, however, when the limits of liability shown on the declarations page or applicable endorsement have been exhausted by the payment of judgments and/or settlements.

Defense Costs are payable in addition to the limits of liability shown on the declarations page or applicable endorsement for Health Care General Liability Insurance.

We may investigate any Claim as We deem appropriate. We shall not be liable for the cost of legal services and other costs or fees incurred by any attorney selected by an Insured without Our written consent. We shall not be liable for the cost of any legal services and other costs or fees incurred before Our receipt of the written notice of Claim.

B. **EXCLUSIONS**

No Defense or Payment of Damages. In addition to the Common Exclusions in Part VI of this policy, We will neither defend nor pay Damages because of Claims that result from any of the following:

1. Any liability for Personal Injury or Advertising Injury arising from:

- a. A Medical Incident;
 - b. Administration of Your Employee Benefits Program;
 - c. Any fees or costs associated with an Administrative Proceeding;
 - d. Oral or written publication of material, if done by or at the direction of an Insured with knowledge of its falsity;
 - e. Oral or written publication of material of which the first injurious publication or utterance of the same or similar material by or on behalf of the Insured was made before the beginning of the Policy Period;
 - f. The willful violation of a penal statute or ordinance committed by or with the consent of an Insured;
 - g. Liability an Insured has assumed in a contract or agreement. This exclusion does not apply to liability for Damages that an Insured would have in the absence of the contract or agreement; or
 - h. An electronic chatroom or bulletin board an Insured hosts, owns, or over which an Insured exercises control.
2. Any liability for Advertising Injury arising from:
- a. Breach of contract;
 - b. The failure of goods, products or services to conform with advertised quality or performance;
 - c. The wrong description of the price of goods, products or services; or
 - d. An offense committed by an Insured whose business is advertising, broadcasting, publishing or telecasting.

III. MEDICAL PAYMENTS

A. INSURING AGREEMENT

1. We will pay Medical Expenses as described below for Bodily Injury caused by an Occurrence:
 - a. On premises an Insured owns or rents and that are approved by Us in writing; or
 - b. Resulting from an Insured's operations;provided that:
 - i. The Occurrence takes place during the Policy Period;
 - ii. The expenses are incurred and reported to Us within one year of the date of the Occurrence; and
 - iii. The injured person submits to examination, at Our expense, by physicians of Our choice as often as We reasonably require.
2. We will make these payments even if an Insured is not legally required to do so. These payments will not exceed the applicable sub-limit of insurance shown on the declarations page or applicable endorsement.

B. EXCLUSIONS

We will not pay Medical Expenses for Bodily Injury:

1. To any Insured.
2. To a person hired to work for or on behalf of any Insured or a tenant of any Insured.
3. To a person injured on that part of premises an Insured owns or rents and that the person normally occupies.
4. To a person, whether or not an Employee of any Insured, if benefits for the Bodily Injury are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
5. To a person injured while taking part in athletics.
6. Included within the Products-Completed Operations Hazard.
7. Excluded under Coverage B, Section I, Bodily Injury, Property Damage and Fire Damage Liability, in this Health Care General Liability Insurance.

SECTION II: Who Is Insured

In addition to those persons or organizations included within the definition of Insured, each of the following is an Insured to the extent set forth below, subject to Common Condition Q., “Other Insurance:”

1. Employees, Authorized Volunteer Workers and students while acting within the course and scope of their duties for the Named Insured. However, Employees, Authorized Volunteer Workers or students are not Insureds for:
 - a. Bodily Injury or Personal Injury to an Insured or an Employee, Authorized Volunteer Worker or student while acting within the course and scope of their duties for an Insured; or
 - b. Property Damage or Fire Damage to property owned or occupied by or rented or loaned to any Employee, Authorized Volunteer Worker or student or any of an Insured's partners or members (if an Insured is a partnership or joint venture).
2. Any member of a duly authorized board or any committee of the Named Insured while acting within the course and scope of their duties for the Named Insured.
3. Any person communicating information to the Named Insured or its medical or professional staff for the purpose of aiding in the evaluation of Professional Health Care Services or the qualifications, professional competence, fitness or character of an applicant for membership or privileges on such medical or professional staff, but only while acting within the course and scope of their duties for the Named Insured.
4. Any administrator or department head while acting within the course and scope of their administrative duties for the Named Insured.
5. With respect to Mobile Equipment registered to the Named Insured under any motor vehicle registration law, any person is an Insured while driving such equipment along a public highway with permission of the Named Insured and while engaged in business on behalf of the Named Insured. Any other person or organization responsible for the conduct of such person is also an Insured, but only with respect to liability arising from the operation of the equipment, and only if no Other Insurance of any kind is available to that person or organization for this liability. However, no person or organization is an Insured with respect to:
 - a. Bodily Injury to an Employee, Authorized Volunteer Worker or student of the person driving the equipment; or
 - b. Property Damage or Fire Damage to property owned by, rented to, in the charge of or occupied by the Named Insured or the employer of any person who is an Insured under this provision.

COVERAGE C: Administration of Your Employee Benefits Program Insurance – Claims Made

THIS INSURANCE IS PROVIDED ON A CLAIMS MADE BASIS.

A. INSURING AGREEMENT

1. **Indemnity.** We will pay on on Your behalf all sums, up to the limits of liability shown on the declarations page or applicable endorsement, that You shall become legally obligated to pay as Damages because of a Benefit Error directly resulting from the Administration of Your Employee Benefits Program:
 - a. That takes place within the Coverage Territory; and
 - b. That takes place on or after the Retroactive Date shown on the declarations page and before the expiration or termination date of this policy; and.
 - c. That results in a Claim first made against You during the Policy Period and is first reported to Us during the Policy Period.
2. **Defense.** We shall have the right and duty to defend You against any Claim because of a Benefit Error directly resulting from the Administration of Your Employee Benefits Program:
 - a. That takes place within the Coverage Territory; and
 - b. That takes place on or after the Retroactive Date shown on the declarations page and before the expiration or termination date of this policy; and
 - c. That results in a Claim first made against You during the Policy Period and is first reported to Us during the Policy Period.

We have the exclusive right, using counsel of Our choice, to investigate, negotiate and defend any Claim. Our duty to defend ends, however, when the limits of liability shown on the declarations page or applicable endorsement have been exhausted by payment of judgments and/or settlements.

Defense Costs are payable in addition to the limits of liability shown on the declarations page or applicable endorsement for Administration of Your Employee Benefits Program Insurance.

We may investigate any Claim as We deem appropriate. We shall not be liable for the cost of legal services and other costs or fees incurred by an Insured without Our written consent. We shall not be liable for the cost of any legal services and other costs or fees incurred before Our written receipt of notice of Claim.

B. WHO IS INSURED

In addition to those persons or organizations included within the definition of Insured, each of the following is an Insured to the extent set forth below, subject to Common Condition Q., “Other Insurance:”

1. Employees, Authorized Volunteer Workers and students, past or present, whom You authorized to administer Your Employee Benefits Program, but only while acting within the course and scope of their duties for You.
2. Any member of Your duly authorized professional boards or committees or as a person charged with the duty of executing directives of any such board or committee, but only while acting within the course and scope of their duties for You.
3. Any administrator or department head while acting within the course and scope of their administrative duties for You.

C. EXCLUSIONS

No Defense or Payment of Damages. In addition to the Common Exclusions in Part VI of this policy, We will neither defend nor pay Damages because of Claims that result from any of the following:

1. Any liability arising from a Medical Incident.
2. Any liability arising from an Occurrence.
3. Any liability for Advertising Injury or Personal Injury.
4. Any liability arising from the failure to perform under a contract by any insurer or other provider of benefits under Your Employee Benefits Program.
5. Any liability arising from the failure of any investment to perform as represented by an Insured or the investment or non-investment of funds in the Employee Benefits Program.
6. Any liability arising from the advice given by an Insured to an Employee to participate or not to participate in stock subscription plans, individual retirement accounts or salary reduction plans.
7. Any liability arising from the failure to provide benefits because they were not properly funded, or because of any insurance company's failure to comply with the terms of its policy, or, because an insurance company becomes insolvent.
8. Any liability arising from the termination of any Employee Benefits Program.
9. Any liability arising from any fines, taxes or penalties imposed by law or other matters that are uninsurable under law.
10. Any liability arising from personal profit or advantage gained by an Insured without the legal right to the gain.

COVERAGE D: Physicians Administrative Defense Coverage – Claims Made

THIS INSURANCE IS PROVIDED ON A CLAIMS MADE BASIS.

A. INSURING AGREEMENTS

1. **Defense Cost Coverage.** Subject to proof, We will pay attorney's fees and costs incurred in the defense of an Administrative Proceeding instituted against the Named Insured, an endorsed physician or Health Care Extender, or any other employed or contracted licensed health care professional while acting within the course and scope of their duties for the Named Insured, up to the applicable limits of coverage shown on the declarations page or applicable endorsement, if the Administrative Proceeding:
 - a. Arises from an act that takes place within the Coverage Territory; and
 - b. Arises from an act that takes place on or after the applicable Retroactive Date and before the expiration or termination date of this policy or applicable coverage; and
 - c. Is instituted against the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional during the Policy Period and is first reported to Us during the Policy Period.

An Administrative Proceeding is considered to have been instituted at the time the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional is served with a Charging Document or receives notice that an Administrative Entity may investigate their Professional Conduct.

2. **Practice Interruption Expense Coverage.** Subject to proof, We will pay the Named Insured, an endorsed physician or Health Care Extender, or any other employed or contracted licensed health care professional while acting within the course and scope of their duties for the Named Insured, for all reasonable expenses and earnings lost, up to the applicable limits of coverage shown on the declarations page or applicable endorsement, in the event they are required to attend any hearings held in connection with an Administrative Proceeding in which the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional is named.

B. CONDITIONS

In addition to the Common Conditions contained in Part V of this policy, the following conditions apply to this coverage:

1. **Application of Limits of Coverage.**
 - a. The limits of coverage shown on the declarations page or applicable endorsement are the most We will pay regardless of the number of:

- i. Named Insureds, endorsed physicians or Health Care Extenders, or other employed or contracted licensed health care professionals insured under this policy;
 - ii. Persons or entities instituting an Administrative Proceeding against the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional;
 - iii. Administrative Proceedings instituted against the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional.
- b. Our total obligation under this coverage shall not exceed the limits of coverage shown as the applicable annual aggregate limit on the declarations page or applicable endorsement.
 - c. The limits of coverage are not cumulative, even if an Administrative Proceeding resulting from related acts spans more than one Policy Period.

2. **Multiple Administrative Proceedings.**

- a. All Administrative Proceedings arising from:

- i. The same act;
- ii. A series of similar or related acts; or,
- iii. Audits or reviews of billing or coding practices:

regardless of the number of patients involved or procedures reviewed, shall be treated as a single Administrative Proceeding and deemed reported on the date the first Administrative Proceeding is reported to Us.

- b. The only policy that shall apply to the Administrative Proceedings is the policy in force on the date the first Administrative Proceeding is reported to Us.

3. **Notice of Administrative Proceeding.** The Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional shall, as soon as practicable, advise Us of the receipt of formal notice of the institution of any Administrative Proceeding.

4. **Right to Settle.** Nothing in Coverage D shall be construed to deny or otherwise limit the right to effect a settlement of an Administrative Proceeding.

5. **Selection of Attorneys.** The Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional shall select attorneys as he/she deems appropriate. We have no right or obligation to select any attorney. Our only responsibility is to pay for those attorney's fees and costs up to the limits of coverage shown on the declarations page or applicable endorsement.

C. EXCLUSIONS

In addition to the Common Exclusions contained in Part VI of this policy, this coverage is not available for:

1. Any Claims arising from Medical Incidents, Occurrences, Advertising Injury, Personal Injury or Benefit Errors.
2. Any fees or costs incurred in an action against the Named Insured, an endorsed physician or Health Care Extender, or any other employed or contracted licensed health care provider, except for an action brought by an Administrative Entity seeking injunctive relief.
3. Any legal action initiated by the Named Insured, an endorsed physician or Health Care Extender, or any other employed or contracted licensed health care professional except with Our prior written consent.
4. Any matter involving the initial application for licensure, medical staff membership or clinical privileges, or initial application for participation as a provider under any managed care contract or participation as a provider under any Health Care Benefit Program.
5. Any matter involving the membership in any professional society or other professional organization or involving the certification by any specialty or subspecialty practice board or college of medical practice.
6. Medical, psychiatric or psychological treatment the Named Insured, an endorsed physician or Health Care Extender, or any other employed or contracted licensed health care professional undergoes as required by any physician impairment committee or like body, or any educational or training program, whether or not such treatment or program is requested or mandated by an Administrative Entity.
7. Implementation of any compliance program or any policies, procedures or practices relating to participation as a provider of medical services to a managed care organization or under any Health Care Benefit Program, whether initiated voluntarily or pursuant to direction by, order of, or in settlement with an Administrative Entity.
8. A demand or order by any agency responsible for regulating disability benefits, unemployment compensation, workers' compensation or any similar law.
9. Any action under the Employee Retirement Income Security Act of 1974 or any amendments thereto, or any similar provisions of any federal, state or local law.
10. Any action under the Occupational Safety Act of 1970 or any amendments thereto, or any similar provisions of any federal, state or local law.
11. Any action under the Worker's Adjustment and Retraining Notification Act and any amendments thereto, or any similar provisions of any federal, state or local law.

12. Any action by any agency responsible for enforcing securities law, Blue Sky laws or any laws relating to securities transactions or fair trade practices.
13. The violation of any lawful order from an Administrative Entity.
14. Any routine audit, review or accounting conducted by any Administrative Entity, that does not have, as a possible consequence, an adverse effect on licensure, medical staff privileges or participation as a provider of medical services to a managed care organization or Health Care Benefit Program.

Specimen

PART III ADDITIONAL BENEFITS

The following benefits are in addition to the limits of liability shown on the declarations page or applicable endorsement. These benefits end when We have exhausted the applicable limits of liability.

Coverage under this section is contingent upon compliance with and subject to all other sections of this policy.

- A. **Attendance at Trial.** We will pay, with respect to any Claim We defend, all reasonable expenses incurred by an Insured at Our request to assist Us in the investigation or defense of the Claim. We will also pay an Insured's actual loss of earnings up to \$500 per half day, subject to proof and Our prior approval, because of time off from work, while attending a trial in connection with such Claim at Our request.
- B. **Bonds.** We will pay, with respect to any Claim We defend:
1. Premiums on appeal bonds if We decide to appeal a legal judgment against an Insured, but only to the extent of a bond premium for that portion of a judgment that does not exceed the applicable limits of liability. The decision to appeal at Our expense is solely Ours. In the event We decide not to appeal, an Insured may do so at its own expense.
 2. Premiums on bonds to release attachments in a suit defended by Us for an amount that does not exceed the applicable limits of liability.

We do not have to apply for or furnish these bonds.

- C. **Defense Costs.** We have the right and duty to defend any Claim that is covered by Coverages A, B and/or C of this policy. In addition to the limits of liability for Coverages A, B and/or C We will pay Defense Costs and will:
1. Pay prejudgment and post-judgment interest only on that part of any judgment We pay. We will not pay any prejudgment interest that accrues after We offer to pay the limits of liability that apply. We will not pay any post-judgment interest that accrues after We pay or offer to pay Our share of the judgment.
 2. Pay any costs taxed against the Insured in any such Claim. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the Insured.

PART IV DEFINITIONS

There are defined terms used throughout this policy. They are underlined and are defined in this section. When used in this policy (including endorsements forming a part thereof):

A. **Administration** means the following acts:

1. Describing the Employee Benefits Programs to Employees or beneficiaries;
2. Interpreting the terms and conditions of the Employee Benefits Programs;
3. Handling of records and processing of benefits in connection with the Employee Benefits Programs; or
4. Enrolling Employees or their beneficiaries in the Employee Benefits Programs or terminating or canceling their enrollment.

B. **Administrative Entity** means any entity empowered to:

1. Conduct an Administrative Proceeding against the Named Insured, an endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional regarding licensure status, clinical privileges, medical staff membership, and status as a provider under any managed care contract or participation as a provider of services to any Health Care Benefit Program.
2. Investigate and regulate compliance with statutes and regulations relating to workplace and Employment Practices.

C. **Administrative Proceeding** means a proceeding instituted by:

1. A governmental body responsible for licensure, regulation and professional discipline of physicians and other health care providers.
2. A hospital or other health care facility regarding suspension, revocation, limitation of or other corrective action against the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional's medical staff membership or action against the medical staff membership or clinical privileges as governed by applicable medical staff by-laws, rules and regulations.
3. A managed care organization regarding the suspension, termination or other limitation of the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional's participation as a provider of medical services to patients.
4. Any entity responsible for enforcing compliance with statutes relating to the receipt of payment under any Health Care Benefit Program.
5. Any governmental entity responsible for investigation and enforcement of statutes and regulations relating to workplace and Employment Practices.

An appeal from a final disposition of an Administrative Proceeding shall be considered part of the Administrative Proceeding.

- D. **Advertising Injury** means injury arising from one or more of the following offenses:
1. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 2. Oral or written publication of material that violates a person's right of privacy;
 3. Misappropriation of advertising ideas or style of doing business; or
 4. Infringement of copyright, title, service mark, trade name or slogan.
- E. **Asbestos** means Asbestos and any other allied compound, substance or product or fibers thereof that is used as a non-combustible, non-conducting or chemically resistant material.
- F. **Authorized Representative** means:
1. The person designated in the application, updated application or any other written statements or communications the Named Insured supplies;
 2. The person responsible for providing consent decisions on behalf of the Named Insured; and
 3. The person who will act on behalf of the Named Insured or other Insureds for all other purposes relating to this policy.
- G. **Authorized Volunteer Worker** means any approved person, group or organization, including an auxiliary, while acting within the course and scope of their duties for the Named Insured and who is not compensated for their services or labor.
- H. **Auto** means a land motor vehicle, trailer or semi-trailer licensed for travel on public roads, including any attached machinery or equipment. Auto does not include Mobile Equipment.
- I. **Benefit Error** means any negligent act, error or omission in the Administration of Your Employee Benefits Programs.
- J. **Bodily Injury** means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death resulting from physical injury, sickness or disease. Bodily Injury also includes loss of care or services that results from the above.
- K. **Charging Document** means the formal written notice issued by a state licensing board, hospital credentialing body, managed care organization, entity responsible for enforcement of compliance with statutes or regulations relating to receipt of payment under any Health Care Benefit Program or governmental entity responsible for enforcing compliance with statutes and regulations relating to workplace and Employment Practices, setting forth the pending allegations or charges against the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care provider.
- L. **Claim** means:
1. Actual Claim:

Written notice or demand for Damages that an Insured has received regarding a Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error; or

2. Potential Claim:

Any Medical Incident, Occurrence, offense or Benefit Error that may result in an actual Claim.

An event reported by an Insured to Us as part of risk management or loss control services shall not be considered a report of a Claim.

M. **Coverage Territory** means:

1. Any state We approved in writing and for which any Insured holds current and applicable licensure to provide Professional Health Care Services and Professional Committee Activities; or
2. If Coverage B, Health Care General Liability Insurance, is provided, anywhere in the world if the injury or damage arises from goods or products made or sold by an Insured in the Coverage Territory described in 1 above.

N. **Damages** means all sums that an Insured becomes legally obligated to pay by reason of the liability imposed upon an Insured by law because of injury or damage to which this policy applies. However, Damages does not include those sums resulting from:

1. The multiplication of compensatory Damages by statute or regulation;
2. The assessment of fines, penalties, sanctions or fees;
3. Restitution, return or disgorgement of fees or profits, charges for products or services rendered, capitation payments, premiums or any other funds allegedly wrongfully held or obtained;
4. Non-monetary relief or redress in any form other than monetary compensation or monetary Damages, including without limitation, the cost of complying with any injunctive, declaratory or administrative relief;
5. Matters that are uninsurable under applicable law;
6. Defense Costs;
7. Punitive or exemplary Damages; or
8. Interest.

O. **Defense Costs** means the reasonable fees, costs and expenses of attorneys, experts and consultants incurred in the investigation, adjustment, defense and/or appeal of a Claim with Our approval or direction provided that Defense Costs shall not include remuneration, salaries, overhead, fees, loss of earning reimbursement or benefit expenses of any Insured.

- P. **Discrimination** means the unlawful treatment of individuals based on race, color, ethnic origin, ancestry, gender, sexual orientation, age, religion, pregnancy, physical or mental disability, marital status or other status that is protected under any applicable federal, state or local statute or ordinance.
- Q. **Employee** means a person on the Named Insured's payroll, whose service or labor is provided on behalf of the Named Insured, who is supervised by an Insured and who is subject to the withholding of taxes. Independent contractors are not Employees.
- R. **Employee Benefits Program** means:
1. Group plans for life, health, dental, eye care, disability, automobile, homeowners and legal advice insurance;
 2. Pension, retirement and profit sharing plans;
 3. Individual Retirement (IRA) plans;
 4. Salary reduction plans under Internal Revenue Code 401(k) or amendments;
 5. Employee stock subscription plans;
 6. Savings plans;
 7. Social Security system benefits;
 8. Workers' compensation and unemployment insurance;
 9. Employee assistance programs;
 10. Travel and vacation plans;
 11. Educational tuition reimbursement plans; and
 12. Section 125 Health Reimbursement and Dependent Care Plans.
- S. **Employment Practices** includes, but is not limited to, any of the following:
1. Breach of any employment contract;
 2. Failure or refusal to hire or employ;
 3. Dismissal, discharge, reduction in force, downsizing or termination of employment, whether actual or constructive;
 4. Demotion, reassignment, failure or refusal to promote, or deprivation of career opportunity;
 5. Discipline and evaluation of Employees;

6. Discrimination, defamation or harassment of any kind affecting any present or former Employee or applicant for employment;
 7. Retaliatory treatment against an Employee arising from the Employee's attempted or actual exercise of the Employee's rights under the law;
 8. Employment-related misrepresentation;
 9. Failure to implement appropriate workplace or employment policies or procedures; or
 10. Malicious prosecution.
- T. **Fire Damage** means Property Damage because of fire to premises an Insured rents or leases from others. Water damage and smoke damage from a fire are also included. The damage from the fire must be caused by an Insured.
- U. **Fungi** means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by Fungi.
- V. **Health Care Benefit Program** means any public or private plan or contract, under which any medical benefit, item or service is provided to any individual and includes any individual or entity who is providing a medical benefit, item or service for which payment may be made under the plan or contract.
- W. **Health Care Extenders** means a certified registered nurse anesthetist, dentist, midwife, nurse perfusionist, nurse practitioner, physician assistant, preceptee or podiatrist.
- X. **Impaired Property** means tangible property, other than an Insured's Product or an Insured's Work, that cannot be used or is less useful because:
1. It incorporates an Insured's Product or an Insured's Work that is known or thought to be defective, deficient, inadequate or dangerous; or
 2. An Insured has failed to fulfill the terms of a contract or agreement.
- Y. **Insured** means each of the following to the extent set forth below and any person or organization qualifying as an Insured under the "Who Is Insured" sections for the applicable coverages:
1. The Named Insured;
 2. If the Named Insured is a partnership, joint venture, or limited liability partnership or corporation, that partnership, joint venture or limited liability partnership or corporation and any partner or member thereof is an Insured, but only for the liability as such. No person or organization is an Insured with respect to the conduct of any current or past partnership, joint venture, or limited liability partnership or corporation that is not set forth in this policy as a Named Insured;
 3. Any executive officer, stockholder, or member of the board of trustees, directors or governors of the Named Insured while acting within the scope of his or her duties as such, except with respect to the ownership, maintenance, use, Loading or Unloading, or existence of Auto, aircraft or watercraft; or

4. Any organization You newly acquire or form, other than a partnership or joint venture, and in which You maintain ownership or majority interest, and for which a premium has been assessed and paid to Us.

Z. **Insured Contract** means:

1. Any written:
 - a. Lease of premises;
 - b. Obligation, as required by ordinance, to indemnify a municipality, except in connection with work for the municipality;
 - c. Elevator maintenance agreement; or
 - d. Contract or agreement pertaining to the Named Insured's business (including indemnification of a municipality in connection with work or services performed for a municipality) under which an Insured assumes the tort liability of another to pay for Bodily Injury or Property Damage to a third party or organization, but only for an Insured's acts or omissions and not the acts or omissions of any third party or organization. Such injury or damage must occur on or after the date the Insured Contract was executed. Tort liability means liability imposed by law in the absence of any contract or agreement.
2. An Insured Contract does not include that part of any contract or agreement:
 - a. That indemnifies an architect, engineer building contractor or surveyor for injury or damage arising from:
 - i. Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - ii. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
 - b. That indemnifies any person or organization for Property Damage because of a fire unless the Named Insured is held legally liable; or
 - c. That indemnifies any person or organization for Bodily Injury or Property Damage arising from construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing.

AA. **Loading or Unloading** means the handling of property:

1. After it is moved from the place where it is accepted, for movement into or onto an aircraft, watercraft or Auto;
2. While it is in or on an aircraft, watercraft or Auto; or
3. While it is being moved from an aircraft, watercraft or Auto to the place where it is finally delivered.

However, Loading or Unloading does not include the movement of property by means of mechanical device, other than a hand truck that is not attached to the aircraft, watercraft or Auto.

AB. **Manifests** means:

1. For Bodily Injury when such injury, sickness or disease is first diagnosed by a medical professional; and
2. For Property Damage or Fire Damage when such damage is first discovered by any Insured or by the person or organization whose property suffered such damage, whichever comes first.

AC. **Medical Expenses** means all reasonable and necessary fees for Professional Health Care Services, including the following:

1. First aid at the time of an accident;
2. Medical and surgical services, laboratory tests, dental and prosthetic devices;
3. Ambulance, hospital, professional nursing; or
4. Funeral services.

AD. **Medical Incident** means any act or omission or series of related acts or omissions in the rendering of or failure to render Professional Health Care Services or Professional Committee Activities.

AE. **Mobile Equipment** means any of the following types of land vehicles, including any attached machinery, apparatus, or equipment:

1. Vehicles maintained for use solely on or next to a Covered Premise;
2. Vehicles that travel on crawler treads;
3. Vehicles not described in paragraphs 1 and 2 above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:
 - a. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting, and well servicing equipment; or
 - b. Cherry pickers and similar devices used to raise or lower workers;
4. Vehicles not described in paragraphs 1 and 2 above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not Mobile Equipment but will be considered Autos:

- a. Equipment designed primarily for:
 - i. Road maintenance, but not construction or resurfacing; or
 - ii. Street cleaning;

- b. Cherry pickers and similar devices mounted on Auto or truck chassis and used to raise or lower workers; or
 - c. Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.
- AF. **Named Insured** means the organization named on the declarations page of this policy as Named Insured, also identified hereinafter as You and Your.
- AG. **Occurrence** means an accident, including continuous or repeated exposure to substantially the same conditions, resulting in Bodily Injury, Property Damage or Fire Damage, neither expected nor intended from the standpoint of an Insured. Occurrence includes any intentional act by or at the direction of an Insured that results in Bodily Injury if such injury arises solely from the use of reasonable force for the purpose of protecting persons or property. The date of the Occurrence is the date of the first circumstance resulting in Bodily Injury, Property Damage or Fire Damage, regardless of when the Bodily Injury, Property Damage or Fire Damage Manifests itself or is discovered.
- AH. **Other Insurance** includes, but is not limited to, coverage or benefits provided by self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, mutual insurance companies, stock insurance companies, risk retention groups, reciprocal exchanges, mutual benefit or assistance programs, or any other plan or agreement of risk assumption, or any other source of indemnification.
- AI. **Personal Injury** means injury, other than Bodily Injury, arising from one or more of the following offenses:
1. False arrest, detention or imprisonment;
 2. Malicious prosecution;
 3. Assault and/or battery;
 4. Interference with an advantageous or contractual relationship;
 5. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services; or
 6. Oral or written publication of material that violates a person's right of privacy.
- AJ. **Policy Period** means the period of time indicated on the policy declarations page from the effective date to the expiration date, or the earlier termination of the policy, if any, in accordance with Common Condition F., "Cancellation." All dates shown are 12:01 a.m. Your local time.
- AK. **Pollutant** means any solid, liquid, gaseous, nuclear or thermal irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, acids, alkalis, chemicals, lead and other waste material or irritants. Waste includes, but is not limited to, spent fuel and by-products, medical waste and any material to be recycled, reconditioned or reclaimed.

AL. **Pollution Incident** means emission, discharge, release or escape of Pollutants into or upon land, the atmosphere, or any watercourse or body of water. The entirety of such emission, discharge, release or escape shall be deemed one Pollution Incident.

AM. **Product** means:

1. Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - a. An Insured;
 - b. Others trading under an Insured's name; or
 - c. A person or organization whose business or assets an Insured has acquired if the Occurrence takes place after the date of acquisition.
2. Containers (other than vehicles), material, parts or equipment furnished in connection with such goods or products.
3. Insured's Product includes warranties or representations made at any time with respect to the fitness, quality, durability or performance of:
 - a. An Insured's Product; and
 - b. The providing of or the failure to provide warnings or instructions.
4. An Insured's Product does not include vending machines or other property rented to or located for the use of others but not sold.

AN. **Products-Completed Operations Hazard**

1. Includes all Bodily Injury, Property Damage and Fire Damage occurring away from premises You own or rent and arising from an Insured's Product or an Insured's Work except:
 - a. Products that are still in an Insured's physical possession; or
 - b. Work that has not yet been completed or abandoned.
2. An Insured's Work will be deemed completed at the earliest of the following times:
 - a. When all of the Work called for in an Insured's contract has been completed.
 - b. When all of the Work to be done at the site has been completed if an Insured's contract calls for Work at more than one site.
 - c. When the part of the Work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

3. This hazard does not include Bodily Injury, Property Damage or Fire Damage arising from:
 - a. The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle created by the Loading or Unloading of it; or
 - b. The existence of tools, uninstalled equipment or abandoned or unused materials.

AO. **Professional Committee Activities** means:

1. An Insured's duties as a member of a health care facility staff committee that conducts credentialing, quality assurance, peer review or medical ethics review, provided such facility is accredited by the Joint Commission, the Accreditation Association for Ambulatory Health Care or similarly constituted organization;
2. An Insured's duties as a member of a committee of the American Medical Association or an Insured's state or county medical association or medical specialty society that conducts credentialing, quality assurance, peer review or medical ethics review; or
3. An Insured's duties as a member of the Named Insured's duly authorized committee that conducts credentialing, quality assurance, peer review, utilization review or medical ethics review on behalf of the Named Insured.

AP. **Professional Conduct** means any activity engaged in by the Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional relating to their provision of medical services, or to their conduct as an employer or supervisor in connection with their medical practice.

AQ. **Professional Health Care Services** means those health care or medical services an Insured provides including, but not limited to:

1. Direct medical, surgical, dental or nursing treatment, including the furnishing of food or beverages in connection therewith;
2. Making medical diagnoses and rendering medical opinions and or medical advice;
3. Furnishing or dispensing of drugs or medical, dental or surgical supplies or appliances; or
4. The handling, treatment or performing of postmortem examinations on deceased human bodies, including autopsies, organ donation or other procedures.

AR. **Property Damage** means:

1. Physical injury to or destruction of tangible property that occurs within the Coverage Territory, including all resulting loss of use of that property occurring at any time. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
2. Loss of use of tangible property that is not physically injured or destroyed provided such loss of use is caused by an Occurrence within the Coverage Territory. All such loss of use shall be deemed to occur at the time of the Occurrence that caused it.

AS. **Retroactive Date** as set forth in item 3 of the declarations page, or applicable endorsement, is the earliest date on which a Medical Incident, Benefit Error or Administrative Proceeding may occur and for which coverage may be afforded under this policy.

AT. **Sexual Misconduct** means physical or mental assault, harassment or contact of a sexual nature.

AU. **We, Us** and **Our** refer to NORCAL Mutual Insurance Company, identified hereinafter as NORCAL.

AV. **Work** means:

1. Work or operation performed by an Insured or on behalf of an Insured.
2. Materials, parts or equipment furnished in connection with such Work or operations.
3. Insured's Work includes:
 - a. Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of an Insured's Work; and
 - b. The providing of or failure to provide warnings or instructions.

AW. **You** and **Your** refer to the Named Insured shown on the declarations page.

PART V COMMON CONDITIONS

The following Conditions apply to the entire policy.

A. **Application Form.** The completed and signed application form, and any materials submitted as part of the application, are the basis for the issuance of the policy. By signing the application form and any materials submitted as part of the application, the person who signs warrants that the particulars and statements contained in the application are truthful. The application form and any materials submitted as part of the Named Insured's application shall be retained and deemed attached to and made part of the policy.

B. **Application of Limits of Liability.**

1. Application of Limits of Liability – General.

Subject to Common Condition N., “Multiple Claims Arising from the Same Circumstances.”

- a. The each Claim limit shown on the declarations page or applicable endorsement is the most We will pay for all Damages arising from a Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error regardless of the number of:
 - i. Insureds under the policy;
 - ii. Persons or organizations sustaining Damages;
 - iii. Claims;
 - iv. Coverage parts attached hereto; or
 - v. Autos involved.
- b. Subject to the above provision, Our total liability for all Claims and all Damages to which this policy applies shall not exceed the limits of liability shown on the declarations page or applicable endorsement as the aggregate limit per Policy Period for the applicable coverage.
- c. It is further agreed that in no event shall We be liable for any additional payments, including Defense Costs, under this policy once the applicable limits of liability shown on the declarations page or applicable endorsement have been exhausted by payments of judgments or settlements.

2. Application of Limits of Liability – Each Policy Period.

The applicable limit of liability applies separately to each consecutive annual Policy Period or to any Policy Period of less than twelve months. If We extend the Policy Period after issuance for an additional period of less than twelve months, the additional period will be deemed part of the last preceding period for purposes of determining the limits of liability.

3. Application of Limits of Liability – Claim Covered Under Two or More Insuring Agreements of This Policy.

If a Claim is covered under more than one Insuring Agreement provided by this policy, only one limit of liability shall apply. The limit of liability applying to that Claim shall not exceed the highest applicable limit available under any one Insuring Agreement that applies.

4. Application of Limits of Liability – An Insured Covered Under More Than One Policy Issued by Us.

If this policy and any other policy issued by Us apply to the same Insured, only one such policy shall apply. The limits of liability available to that Insured shall not exceed the highest applicable limits of liability available under any one policy that applies. However, this paragraph does not apply to any policy issued specifically to apply as excess insurance above this policy.

5. Application of Limits of Liability – New Limits.

If You change the limits of liability provided by this policy, the new limits of liability do not apply to any Claim that an Insured knew or should have known about or was reported to Us prior to the effective date of the limits of liability change.

C. **Arbitration of Disputes with Us.** Any dispute arising from this policy will be submitted to and resolved by binding arbitration at a mutually agreed upon location. Arbitrators shall follow the law of the state in which the Named Insured is principally domiciled. Arbitration will be conducted in accordance with the following rules:

1. Unless barred by the statute of limitations, an Insured or We may initiate arbitration by serving all parties with notice of the nature of the claim and demand for arbitration. A claim will be waived and forever barred if on the date of the demand for arbitration the claim would be barred by the applicable statute of limitations in a civil action.
2. Within thirty (30) days after initial service of the demand for arbitration, an Insured and We must each designate an arbitrator and give written notice of this arbitrator to the other. Within thirty (30) days after these notices have been received, the two arbitrators will select a neutral arbitrator and give notice of the arbitrator to the Insured and Us.
3. The parties will be entitled to conduct discovery as permitted by the laws of the state in which the Named Insured is principally domiciled. All discovery disputes will be brought before, and solely resolved by, the neutral arbitrator.
4. Except as otherwise agreed to in writing between the parties, the arbitration will be completed within one hundred and twenty (120) days after initial service of the demand for arbitration. The arbitration will be held at a time and place designated by the neutral arbitrator. Failure by the party initiating arbitration to make a good faith effort to complete arbitration within one hundred and twenty (120) days of the issuance of the demand for arbitration will be deemed a waiver of any and all claims for declaratory relief or damages asserted on behalf of the party initiating arbitration.

5. Each party will pay the fees of the arbitrator that party has selected. We will pay for the expense and fees of the neutral arbitrator, as well as the expenses of arbitration approved by the neutral arbitrator, not including attorney's fees or witness fees or other expenses incurred by a party for that party's own benefit.
 6. Either party has the right to separately arbitrate issues of liability and damages upon written request to the neutral arbitrator.
 7. All claims based upon the same incident, transaction or related circumstances will be arbitrated in one proceeding.
 8. Any arbitration decision given pursuant to these rules will be final, subject only to confirmation, correction or vacation under the laws of the state in which the Named Insured is principally domiciled.
 9. All notices or other written materials required to be served in the conduct of the arbitration proceedings following the initial service of the demand must be served in an appropriate manner to ensure delivery within two (2) days after service.
 10. The parties will make every effort to maintain the confidentiality of information and evidence developed in arbitration.
- D. **Assignment.** Assignment of an Insured's interest under this policy shall not bind Us unless Our consent is endorsed onto this policy.
- E. **Bankruptcy.** Bankruptcy or insolvency of an Insured or of an Insured's estate will not relieve Us of Our obligations under this policy, nor does bankruptcy or insolvency of an Insured or of an Insured's estate relieve an Insured of an Insured's obligations under this policy.
- F. **Cancellation.** The Named Insured may cancel this policy at any time, by surrendering the policy to Us or by mailing to Us a written notice stating when the cancellation shall be effective. If the cancellation occurs at any date other than the policy expiration date, return premium will be computed using the customary short rate cancellation table.

If this policy or an Insured's coverage has been in effect more than sixty (60) days since the applicable effective date or is a renewal, We may cancel the policy or an Insured's coverage by mailing or delivering written notice of Our intent to cancel at least:

1. Ten (10) days before the effective date of cancellation if We cancel for non-payment of premium or fraud.
2. Thirty (30) days before the effective date of cancellation if We cancel for any other reason.

If this policy or an Insured's coverage has been in effect sixty (60) days or less since the applicable effective date or is not a renewal, We may cancel the policy or an Insured's coverage at any time upon written notice.

Such written notice of Our intent to cancel shall be mailed to the last known address as shown in Our records. The mailing of this notice shall be sufficient proof of notice.

Either the requested cancellation date or the effective date and hour of cancellation as stated in the cancellation notice shall become the expiration date of the Policy Period or coverage. Delivery of such written notice either by You or by Us shall be acceptable in place of mailing.

If We cancel, other than for non-payment of premium or fraud, earned premium shall be computed pro-rata. If We cancel for non-payment of premium or fraud, return premium may be computed using the customary short rate cancellation table. Premium adjustment, if any, may be made either at the time cancellation is effective or as soon as practicable after cancellation becomes effective. However, the cancellation will be effective even if We have not made or offered a return of premium.

- G. **Changes to Policy.** Any request to change this policy must be communicated to Us in writing by the Named Insured or Authorized Representative and received by Us. Notice to any agent or broker, or knowledge possessed by any agent or broker or by any other person, does not effect a waiver or a change in any part of this policy or stop Us from asserting any right under the terms of this policy. Nor shall the terms of this policy be waived or changed, except by endorsement issued by Us to form a part of this policy.

If We modify the policy by filing changes that are approved or accepted by the insurance supervisory authority of the state in which the Named Insured is principally domiciled and the changes would broaden coverage during the Policy Period, without changing the premium, this policy will automatically receive the broader coverage.

Any endorsement that We issue modifies the coverage. Where the terms of any endorsement are inconsistent with the terms of this policy, the terms of the endorsement shall control.

- H. **Changes to Operations of the Insured.** This insurance is issued based on Your written representation of Your operations and services. You must notify Us immediately, in writing, if there are any changes from those You have previously described in Your application, including changes in Your operations and services, premises, locations, medical procedures, or administrative responsibilities or changes in the status of any Insured's licenses or certificates to operate. Coverage for Claims that result from Medical Incidents, Occurrences, Personal Injury, Advertising Injury or Benefit Errors happening on or after the date of any of these changes is contingent upon such notification.

I. **Duties in the Event of Claim.**

1. In the event of a Claim, the Insured must provide Us written notice as soon as practicable.

The written notice must include the following information:

- a. How, when and where the Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error took place;
- b. The names, addresses and ages of any claimants and witnesses; and
- c. The nature and location of any injury or damage arising from the Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error.

2. All Insureds agree to submit to examination, provide information and permit Us, Our representative or attorneys to take statements, or at Our discretion, sworn depositions, concerning any and all facts underlying each and every Claim made against an Insured by a third party and submitted to Us for defense and/or indemnification coverage under this policy. It is further agreed that all Insureds will make every effort to maintain the confidentiality of any such statement. The Insured's provision of a sworn statement or deposition, if requested by Us, shall be a condition precedent to ongoing defense or indemnification coverage for the Claim.
3. All Insureds agree to maintain patients' medical records in accordance with the laws of the state in which the Named Insured is principally domiciled. The Insured will allow Us unfettered access to those patients' medical records as needed in the defense and investigation of a Claim.
4. All Insureds must cooperate with Us, Our representatives, and defense counsel appointed by Us, and upon Our request will assist in the investigation and management of any Claim. That cooperation includes:
 - a. Immediately send Us any demands, notices, summonses or legal documents received in connection with the Claim;
 - b. Authorize Us to obtain records and other information;
 - c. Assist Us in the enforcement of any right against any person or organization that may be liable to an Insured because of injury or damage to which this policy applies;
 - d. Submitting to a sworn statement or deposition, whether or not a formal coverage or contractual dispute has arisen;
 - e. Assist in effecting settlements;
 - f. Obtain the attendance of witnesses;
 - g. Attend depositions, conferences, hearings and trials;
 - h. Assist in any other aspect of the investigation and defense; and
 - i. If a Claim involves both covered and non-covered Claims and/or causes of action, all Insureds must agree to allow bifurcation of the hearing, arbitration or trial as to covered Claims and Damages, as well as to non-covered Claims and Damages. All Insureds additionally agree to secure a special verdict form that segregates covered Claims from non-covered Claims, as well as covered and non-covered Damages, if requested by Us.
5. All Insureds will continue to cooperate with Us in the event that We elect to appeal a verdict or continue to require assistance pursuing remedies and procedures available to an Insured or Us.
6. No Insured will, except at its own cost, voluntarily make any payment, assume any obligation or incur any expense.

- J. **False and Fraudulent Reports of Claims or Administrative Proceedings.** If any Insured reports a Claim or Administrative Proceeding knowing it to be in any way false or fraudulent, this insurance shall become null and void with respect to that Claim or Administrative Proceeding. If so, We have the right to full recovery of any payment We have already made.
- K. **Inspection and Audit.** We, or Our representative, shall be permitted but not obligated to inspect Your locations and operations, books and records of any Insured during the Policy Period and within three years after the termination of this policy. Neither Our right to make inspections nor any report thereon shall constitute an undertaking to determine or warrant that such property or operations are safe or healthful, or are in compliance with any law, rule or regulation.
- L. **Legal Action Against Us.** No person or organization has a right under this policy to join Us as a party or otherwise bring Us into a suit asking for Damages from an Insured, nor sue Us on this policy unless all the terms of the policy have been complied with and a judgment has been rendered against an Insured. However, We will not be liable for Damages that are not payable under the terms of this policy or that are in excess of the applicable limit of liability.
- M. **Mergers, Acquisitions or Newly Created Entities.** If during the Policy Period the Named Insured acquires or creates another entity or subsidiary or becomes a member of a joint venture or partner in a partnership, or if the Named Insured merges or consolidates with another entity such that the Named Insured is the surviving entity (any of which events is referred to as a “transaction” in this condition M.), We shall have the option of providing coverage to such entity or subsidiary.

Coverage under this provision is afforded only until the 30th day after the Named Insured acquires or forms the organization, or the end of the Policy Period, whichever is earlier, unless specifically endorsed on the policy.

Coverage under this provision is not afforded for liability arising from any Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error that happened before the Named Insured acquired or formed the organization.

No coverage shall be afforded under this policy for any Claim involving the entity or subsidiary that is acquired, created, merged or consolidated with, unless:

1. The Named Insured gives Us notice of such transaction as soon as possible but in no event later than thirty (30) days after the effective date of the transaction;
2. The Named Insured gives Us such information regarding the transaction as We request; and
3. The Named Insured accepts any terms, conditions, exclusions and limitations and pays any additional premium as We, at Our sole discretion, impose. If We, at Our sole discretion, elect to provide coverage, this policy shall not apply to, and We will not pay Damages or Defense Costs for any Claim arising from any Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error happening before:
 - a. The effective date of the transaction; or
 - b. The effective date of coverage under this policy for such entity or subsidiary as set forth in any endorsement to be issued for which premium has been paid.

In the event We, at Our sole discretion, choose not to offer coverage beyond the thirty (30) day period, the Named Insured must pay any premium assessed by Us for that aforementioned period.

For purposes of this condition M., “subsidiary” means any entity for which the Named Insured:

1. Owns or possesses fifty percent (50%) or more of the issued and outstanding capital stock; or
2. Has or controls the right to elect or appoint more than fifty percent (50%) of the directors or trustees.

N. Multiple Claims Arising From the Same Circumstances.

1. All Claims that arise from:
 - a. The same Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error; or
 - b. A series of similar or related Medical Incidents, Occurrences, Personal Injury, Advertising Injury or Benefit Errors:
will be deemed to be a single Claim:
 - i. On the date the first of such Claims is reported to Us if coverage is on a claims made basis; or
 - ii. When the Occurrence, Personal Injury or Advertising Injury first took place if coverage is on an occurrence basis.
2. The only policy that shall apply to the Claim is the policy in force:
 - a. On the date the first of such Claims is reported to Us if coverage is on a claims made basis; or
 - b. When the Occurrence, Personal Injury or Advertising Injury first took place if coverage is on an occurrence basis.

O. Named Insured. Except as otherwise specifically provided for herein, the Named Insured as stated in item 1 on the declarations page, or the Authorized Representative as stated in the application, is authorized to act on behalf of all Named Insureds and other Insureds for all purposes relating to this policy.

P. Non-renewal. The Named Insured may non-renew this policy.

We may non-renew the Named Insured's policy or an Insured's coverage for any reason permitted by law.

If We decide not to renew this policy or an Insured's coverage, We will mail or deliver written notice of the non-renewal at least sixty (60) days before the expiration date of this policy or coverage or in accordance with the laws of the state in which the Named Insured is principally domiciled. If the notice is mailed, proof of mailing will be sufficient proof of notice.

Q. Other Insurance.

1. If there is Other Insurance covering a Claim, this policy will apply on an excess basis, unless that Other Insurance was specifically purchased to apply in excess of the limits of liability of this policy. When this insurance is excess, We will only pay for the amount of the covered Claim, up to the applicable limits of liability, that exceeds:
 - a. The total amount that would be payable by that Other Insurance in the absence of this insurance; and
 - b. The total of all applicable deductibles and self-insured amounts, if any.
2. When this insurance applies on an excess basis, We will have no duty to defend any Claim that any other insurer has a duty to defend. If no other insurer defends, We will have the right, but not the duty, to provide a defense. If We do defend, We will be entitled to assume the Insured's right against all those other insurers.

R. Premium. All premiums for this policy will be computed in accordance with Our rules, rates, and those rating plans in effect with respect to the period for which premiums are due.

You shall pay all premiums including deposit and audit premiums by the due date specified on the premium billings. There is no grace period in this policy for payment of premium.

You shall cooperate with Us, shall maintain records of visits and such other information as is necessary for premium computation, and shall send copies of such records to Us as We may request.

S. Sales or Dissolution of Insured Entities; Cessation of Business.

If during the Policy Period:

1. The Named Insured is dissolved, sold, acquired by, merged into or consolidated with another entity such that the Named Insured is not the surviving entity; or
2. Any person, entity, or affiliated group of persons or entities obtains:
 - a. Ownership or possession of fifty percent (50 %) or more of the issued and outstanding capital stock of the Named Insured, or
 - b. The right to elect or appoint more than fifty percent (50%) of the Named Insured's directors or trustees; or
3. The Named Insured ceases to do business for any reason other than any of the events listed in 1 or 2 above:

coverage under this policy shall continue in full force and effect until the expiration date or any earlier cancellation date, but this policy shall apply only to Medical Incidents, Occurrences, Personal Injury, Advertising Injury or Benefit Errors happening before the effective date of such transaction. This policy shall not apply to and We will not pay any Damages or Defense Costs for any Claim arising from any Medical Incident, Occurrence, Personal Injury, Advertising Injury or Benefit Error happening on or after the effective date of such transaction.

- T. **Separation of Insureds.** Except with respect to the limits of liability, and any rights or duties specifically assigned to the Named Insured, this insurance applies separately to each Insured against whom a Claim is made.
- U. **Special Statutes.** We agree that all provisions of this policy that are in conflict with statutes of Your State are amended to conform to such statutes.
- V. **Subrogation.** If an Insured has rights to recover all or part of any payment We have made under this policy, those rights are transferred to Us. The Insured must do nothing after the loss to impair those rights. At Our request, the Insured will bring suit or transfer those rights to Us and help Us enforce them.
- W. **Voting Rights.** As an Insured member of a mutual insurance company, the Named Insured shall have the right to one vote at any general or special meeting of members of NORCAL held during the Policy Period in accordance with the bylaws of NORCAL.
- X. **When a Claim Is Made.**
1. We will consider a Claim to be made at the earlier of the following:
 - a. On the date an Insured first gives Our Claims Department written notice of a Claim made against an Insured; or
 - b. On the date Our Claims Department receives written notice of a Medical Incident, Occurrence, offense or Benefit Error that is likely to result in a Claim being made against an Insured.
 2. The written notice must include the following information:
 - a. How, when and where the Medical Incident, Occurrence, offense or Benefit Error took place;
 - b. The names, addresses and ages of any injured persons and witnesses; and,
 - c. The nature and location of any injury or damage arising from the Medical Incident, Occurrence, offense or Benefit Error.

An event reported by an Insured to Us as part of Our risk management or loss control services shall not be considered a report of a Claim.

- Y. **Continued Right to Report Claims Under Deleted Benefits Or Coverage.** If We delete a benefit or coverage from this policy, an Insured can report Claims arising from Medical Incidents or Benefit Errors that occurred on or after the applicable Retroactive Date and prior to the deletion of the benefit or coverage from the policy that would have triggered the deleted benefit or coverage. The ability to report such Claims will continue as long as the Named Insured maintains continuous coverage with Us or an extended reporting period endorsement is issued by Us and remains in force.

PART VI COMMON EXCLUSIONS

No Defense or Payment of Damages. We will neither defend nor pay fees, costs or Damages because of Claims or Administrative Proceedings that result from any of the following:

- A. Any liability that results from any disciplinary or Administrative Proceeding such as a State Department of Health Services review; or a review of the quality of the Insured's care by agencies or entities conducting utilization review for government or private insurance programs. However, this exclusion does not apply to coverage that may be afforded under Coverage D, Physicians Administrative Defense Coverage.
- B. Any liability arising from any actual or alleged: price fixing, unfair competition or trade practice; a dispute over fees, income or revenue; the inducement to enter into, the interference with or the dissolution or termination of any business or economic relationship; or violation of any law or regulation including, but not limited to, Title 15 of the United States Code or any similar state statute or regulation that prohibits the unlawful restraining of trade, business or profession.

We will provide a defense against allegations of restraint of trade, business or profession arising from Professional Committee Activities. However, the Insured will reimburse Us for those Defense Costs if liability is admitted or established by judgment or any other way that the Insured committed restraint of trade, business or profession.

- C. Asbestos including, but not limited to:
 - 1. Manufacture of, mining of, use of, sale of, or exposure to Asbestos products, fibers or dust;
 - 2. Transportation, storage or disposal of Asbestos or goods or products containing Asbestos;
 - 3. Removal of Asbestos from any goods, products or structures;
 - 4. Testing, monitoring, removal of, containment of or in any way responding to or assessing the effects of Asbestos;
 - 5. Inhalation, ingestion or physical exposure to Asbestos or goods or products containing Asbestos.
- D. Any liability:
 - 1. That an Insured has assumed under a written or oral contract or agreement; or
 - 2. Arising from any allegation of an Insured's failure to perform under a contract or breach of any contract or agreement, whether written or oral.

However, this exclusion does not apply to liability for Damages:

1. Assumed in a contract or agreement that is an Insured Contract; or
 2. That an Insured would have had in the absence of the contract or agreement.
- E. Any liability for a Claim that is initiated, alleged or caused to be brought about by any Insured covered by this policy against any other Insured covered by this policy. However, this exclusion does not apply to Coverage A, Professional Liability Insurance, to an Insured rendering Professional Health Care Services or engaged in Professional Committee Activities.
- F. Any liability arising from an actual or alleged act of Discrimination, harassment or humiliation, whether or not such a Claim alleges the violation of any law or regulation prohibiting Discrimination, harassment or humiliation. However, this exclusion does not apply to coverage that may be afforded under Coverage D, Physicians Administrative Defense Coverage.
- G. Any liability arising from any Employment Practices, including consequential Bodily Injury. This exclusion applies whether the injury causing event occurs before, during or after employment of the injured person, whether an Insured may be held liable as an employer or in any other capacity, or to any obligation to share Damages with or to repay another party who must pay Damages because of the injury. However, this exclusion does not apply to coverage that may be afforded under Coverage D, Physicians Administrative Defense Coverage.
- H. Any liability arising from the actual or alleged violation of the Employee Retirement Income Security Act of 1974, commonly referred to as the Pension Reform Act of 1974, as amended in part by Title X of the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) and amendments to either or similar provisions of any federal, state or local statutory law or common law.
- I. Any dishonest, fraudulent, willful, criminal or malicious act or omission. However, at the specific request of an Insured, We will defend an Insured in a civil action involving alleged criminal acts that would be otherwise covered by this policy, but only if such acts directly result from providing Professional Health Care Services by an Insured on behalf of the Named Insured.
- J. Any liability of any individual(s) or organization acting as an independent contractor for You unless specifically endorsed on the policy.
- K. Any liability for a Claim whose circumstances were known, or should have been known, by any Insured or any insurer before the effective date of this policy or applicable coverage or, in the case of a newly acquired entity, before the acquisition date of that entity.
- L. Any liability arising from administrative or management services provided by an Insured to an organization that is not an Insured under this policy. This exclusion applies whether or not monetary or other consideration is received for such services.

- M. Any liability arising from nuclear reaction, radiation, or radioactive contamination, or any consequence of these. However, this exclusion does not apply to liability directly resulting from the rendering of, or failure to render, Professional Health Care Services.
- N. Any liability arising from any actual, alleged or threatened Pollution Incident. Nor will We pay any Damages arising from any demand, order or request that any Insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to or assess the effects of Pollutants. This exclusion applies to any Damages that in any way arise from a Pollution Incident whether the incident:
1. Results from the activities of any Insured, or the activities of others; or
 2. Is sudden, gradual, accidental, intended, foreseeable, expected, unexpected, fortuitous, inevitable, preventable or not preventable or wherever or however it occurs.
- O. Any liability for:
1. Bodily Injury, Property Damage or Fire Damage that would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence or presence of any Fungi or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.
 2. Any loss, cost or expense arising out of the abating, 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 bacteria, by any Insured or by any other person or entity.
- P. Any liability arising from the rendering of or failure to render services as an attorney, architect, insurance agent, broker, management consultant, real estate agent or broker or other professional services.
- Q. Any sums demanded or awarded as punitive or exemplary Damages or the multiplication of compensatory Damages by statute or regulation or the assessment of fines or penalties. However, We will defend any Claim for punitive or exemplary Damages as long as the Damages result from a Claim for Damages otherwise covered by this policy. Our duty to defend ends, however, when a judgment and/or settlement has been reached on a Claim otherwise covered by this policy.
- R. Any liability arising from alleged or actual Sexual Misconduct. However, under Coverage A, Professional Liability Insurance:
1. We will defend any Claim directly resulting from Sexual Misconduct to a patient. However, the Insured who allegedly committed Sexual Misconduct will reimburse Us for those Defense Costs if liability is admitted or found by judgment or any other way that he or she committed Sexual Misconduct.

2. We will pay Damages on behalf of any Insured, other than the Insured who allegedly committed Sexual Misconduct, that directly result from Sexual Misconduct to a patient, unless that other Insured:
 - a. Knew or should have known about the Sexual Misconduct but failed to prevent or stop it; or
 - b. Knew or should have known that the Insured who allegedly committed Sexual Misconduct had a prior history of or propensity for Sexual Misconduct.
- S. Any liability arising from a willful violation of any statute or ordinance committed with the knowledge or consent of an Insured.
- T. Any liability, 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 hindering or defending against any of these.
- U. Any obligation that an Insured or any of its insurers may have under workers' compensation, unemployment compensation, disability benefits or any similar law, code, or statute.
- V. Any indemnification obligation that the entity may have as an employer under California Labor Code Section 2802, California Corporations Code Section 317 or any similar law, code or statute in any state in which the entity operates.
- W. Any injury to:
 1. An employee of any Insured arising from and in the course of employment by any Insured or performing duties related to the conduct of any Insured's business; or
 2. The spouse, child, parent, brother or sister of that employee as a consequence of paragraph 1 above.

This exclusion applies:

- a. Whether the Insured may be liable as an employer or in any other capacity; and,
- b. To any obligation to share Damages with or repay someone else who must pay Damages because of the injury.

However, We may provide limited coverage as described in Coverage C, Administration of Your Employee Benefits Program Insurance.

In addition, as it relates to Non-Owned Auto and Hired Auto Liability Insurance, if applicable, this exclusion does not apply to liability assumed by an Insured under an Insured Contract.

- X. Any liability arising from any goods or products developed, manufactured, assembled, sold, handled, distributed or disposed of by any Insured or others trading under any Insured's name. However, this exclusion does not apply to coverage that may be afforded under Coverage B, Health Care General Liability Insurance.
- Y. Any liability arising from a Medical Incident or Occurrence that took place while the license to operate a health care facility or clinic was not in effect or was not valid.
- Z. Any liability arising from business disputes. However, this exclusion does not apply to coverage that may be afforded under Coverage D, Physicians Administrative Defense Coverage.
- AA. Any liability arising from the ownership or management of any nursing facility, convalescent hospital, nursing home or other similarly constituted facility.
- AB. Any services provided by an Insured while employed by the U.S. Government or any other governmental or public entity.
- AC. Any liability arising from the use, administration or prescription of any drug, pharmaceutical or medical device disapproved or not yet approved by the United States Food and Drug Administration for treatment of human beings. However, this exclusion shall not apply to any Claim resulting from an Insured's participation in a clinical study/trial for which We have issued prior written consent of coverage for such clinical study/trial participation.
- AD. Any liability arising from the injection of silicone fluid in a manner disapproved or not yet approved by the United States Food and Drug Administration.
- AE. Any liability arising from the performance of bariatric surgery.
- AF. Any liability arising from the performance of hypnosis.
- AG. Any liability arising from the cutting or penetration of any tissue except in the case of a bona fide medical emergency requiring immediate intervention. However, this exclusion does not apply to:
 - 1. The incising, excising or suturing for the purpose of biopsy or otherwise, lesions, limited to the skin and immediate subcutaneous tissue;
 - 2. Biopsy of lesions limited to the mucous membranes of the nose, mouth, throat, vagina, uterine cervix or rectum;
 - 3. Needle penetration of the skin and blood vessels;
 - 4. Minor amputations in an office or emergency room; or

5. The surgical treatment of cysts, abscesses, or superficial or traumatic wounds using local infiltration anesthesia.

AH. Any liability arising from the administration of, or performance of a procedure on a patient who has been administered, general anesthesia, spinal or epidural anesthesia or deep sedation, in any place other than a hospital, location licensed as a surgical facility or location accredited as a surgical facility by the Joint Commission, AAAASF, AAAHC, IMQ or other accrediting body, unless approved by NORCAL in writing.

AI. Any liability arising from the administration of anesthesia other than topical or by means of local infiltration except in the case of a bona fide medical emergency requiring immediate intervention.

AJ. Any liability arising from the reduction of fractures except in the case of a bona fide medical emergency requiring immediate intervention. However, this exclusion does not apply to the reduction of simple closed fractures.

AK. Any liability arising from providing Professional Health Care Services (not limited to obstetrical care) during delivery (including the immediate labor, puerperium and/or neonatal period) in any facility, or any place other than a licensed acute care hospital or licensed alternative birthing center, except in the case of a bona fide medical emergency requiring immediate intervention.

AL. Any liability arising from the performance of deliveries (including the immediate labor, puerperium and/or neonatal period) except in the case of a bona fide medical emergency requiring immediate intervention.

AM. Any liability arising from the performance of abortion except in the case of a bona fide medical emergency requiring immediate intervention.

PART VII EXTENDED REPORTING PERIOD OPTION

IF AN EXTENDED REPORTING PERIOD ENDORSEMENT IS NOT ISSUED OR PURCHASED, THERE WILL BE NO COVERAGE FOR CLAIMS ARISING FROM MEDICAL INCIDENTS OR BENEFIT ERRORS, OR FOR ADMINISTRATIVE PROCEEDINGS, THAT ARE FIRST REPORTED TO US ON OR AFTER THE EXPIRATION OR TERMINATION DATE OF THIS POLICY OR THE APPLICABLE COVERAGE.

- A. The Named Insured may have the right to purchase an extended reporting period endorsement (frequently known as “tail coverage”) if this policy or applicable coverage is canceled or non-renewed and:
1. The extended reporting period endorsement is requested by written notice to Us within thirty (30) days from the expiration or termination date of this policy or applicable coverage;
 2. The Named Insured is in compliance with all terms and conditions of the policy; and
 3. All outstanding earned premiums have been paid.

We will not issue an extended reporting period endorsement to the Named Insured whose coverage has been cancelled or non-renewed for fraud, misrepresentation, concealment or breach of warranty. Nor will We issue an extended reporting period endorsement to the Named Insured if this policy is cancelled for non-payment or rescinded.

- B. Any additional premium for the extended reporting period endorsement will be computed in accordance with Our rules, rates and rating plans in effect at the time of the expiration or termination of coverage and must be paid to Us. This additional premium is fully earned and non-refundable. If We do not receive full payment of all billed premiums on or before the due date of the premium notice, We will not issue an extended reporting period endorsement and We will cancel any previously issued extended reporting period endorsement.

- C. The extended reporting period endorsement provides an extended period of time for reporting Claims arising from Medical Incidents or Benefit Errors, or for reporting Administrative Proceedings, as follows:

1. Medical Incidents or Benefit Errors that take place on or after the Retroactive Date as shown on the declarations page or applicable endorsement and before the expiration or termination of an Insured's coverage; and
2. Results in a Claim against an Insured that is first reported to Us under the extended reporting period endorsement; or
3. Acts that take place on or after the applicable Retroactive Date and before the expiration or termination of the Named Insured's, an endorsed physician's or Health Care Extender's, or any other employed or contracted licensed health care professional's coverage that result in an Administrative Proceeding instituted against that Named Insured, endorsed physician or Health Care Extender, or other employed or contracted licensed health care professional and first reported to Us under the extended reporting period endorsement.

- D. The extended reporting period endorsement does not extend the Policy Period or change the scope of coverage provided under this policy and any attached endorsement. Except as otherwise provided by this endorsement, any Claims arising from Medical Incidents or Benefit Errors, or any Administrative Proceedings, reported to Us must be covered by this policy.
- E. The extended reporting period endorsement is subject to all of the provisions of the policy in existence at the time Your policy is canceled or non-renewed.
- F. The extended reporting period endorsement provides one set of limits of liability that are applicable only to those Claims first reported during the extended reporting period. Those limits of liability will be eroded by payment of judgments and settlements. Our duty to defend ends when the limits of liability are exhausted by payment of judgments and settlements.
- G. Once in effect, the extended reporting period endorsement may not be canceled unless the Named Insured to whom this extended reporting period endorsement was issued has committed a material breach of the terms or conditions of this policy or any endorsement attached to it.



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