

Professional Liability Insurance

GROUP POLICY

For medical groups, medical partnerships
and medical corporations having more than
one physician partner or shareholder



Important

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

This is a Claims Made Professional Liability Insurance Policy. The coverage afforded by this policy is limited to liability for only those claims resulting from medical incidents or occurrences 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, ADMINISTRATIVE PROCEEDING OR EMPLOYMENT-RELATED CIVIL ACTION

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

CALIFORNIA

If You are located in the following counties: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego

Telephone: (800) 356-5513 (toll free)
(626) 577-4300

Mailing Address: NORCAL Mutual Insurance Company
Two North Lake Avenue, Suite 500
Pasadena, CA 91101-1867

If You are located in any county not listed above:

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

Mailing Address: NORCAL Mutual Insurance Company
560 Davis Street, 2nd Floor
San Francisco, CA 94111-1902
Attn: Professional Claims Department

ALASKA

If You are located in Alaska:

Telephone: (800) 770-3414 (outside Anchorage)
(907) 563-3414 (in Anchorage)

Mailing Address: NORCAL Mutual Insurance Company
4000 Old Seward Hwy., Suite 203
Anchorage, AK 99503

RHODE ISLAND

If You are located in Rhode Island:

Telephone: (800) 230-1004 (toll free)
(401) 276-7500

Mailing Address: NORCAL Mutual Insurance Company
Fleet Center
50 Kennedy Plaza, 7th Floor
Providence, RI 02903

Please see Common Condition I., "Duties In The Event of Claim."

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NORCAL MUTUAL INSURANCE COMPANY
INSURANCE POLICY FOR
MEDICAL GROUPS, MEDICAL PARTNERSHIPS AND MEDICAL CORPORATIONS
HAVING MORE THAN ONE PHYSICIAN PARTNER OR SHAREHOLDER

THIS POLICY IS A NON-ASSESSABLE CLAIMS MADE POLICY

PART I POLICY INTRODUCTION

The insurance provided by this Policy is contained in multiple coverage sections. These coverages are provided on a "claims made" basis. The cost of defending Claims is in addition to the applicable Limits of Liability shown on the Declarations Page or applicable endorsement.

This Policy is provided based on the statements, representations and agreements made in an application, updated application or other written statement or communication an Insured supplies or 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 & CEO



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 applicable 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 that 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; and
 - c. That results in a Claim first made against an Insured during the Policy Period and that 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 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 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 and students while acting within the course and scope of their duties for the Named Insured.
2. This Policy provides coverage for the Named Insured or the Named Insured's Health Care Extenders, interns, externs, residents, dentists, osteopathic or other medical doctors when such professionals are endorsed onto this Policy.

C. EXCLUSIONS

1. **No Defense or Payment of Damages.** In addition to the Common Exclusions in PART V of this Policy, We will not defend any Insured nor pay Damages because of Claims that result from any of the following:
 - a. Any liability from an Occurrence or costs associated with an Administrative Proceeding or Employment-Related Civil Action.
 - b. 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 for which We have issued prior written consent of coverage for such clinical study participation.
 - c. 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 is not in effect.
 - d. Any liability arising from a Medical Incident involving the prescription or dispensing of controlled substances that happened while the license or registration to prescribe or dispense such controlled substances issued to the individual responsible for providing Professional Health Care Services is not in effect.
 - e. Any liability arising from a Medical Incident that took place on or after the date of an involuntary declination, restriction or reduction of hospital privileges (except for temporary restriction due to incomplete medical records), or of a hospital-imposed punitive or disciplinary observation, proctorship, preceptorship or required consultation that an Insured has not reported to Us immediately in writing.
 - f. Any liability arising from a Medical Incident involving the fraudulent creation, alteration or modification of the medical record of any person.
 - g. Any liability arising from a guarantee of the results of any Professional Health Care Services or Professional Committee Activities.

- h. Any services provided by an Insured while employed by the U.S. Government or any other governmental or public entity.
- i. 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.

- j. Any liability arising from publications or utterances in the course of or related to advertising, broadcasting, publishing, or telecasting activities conducted by, or on behalf of, an Insured.
- k. 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 except:
 - i. In the case of a bonafide medical emergency requiring immediate intervention; or,
 - ii. A facility named in an endorsement to this Policy.
- l. Any liability arising from business disputes, except as may be provided under Coverage C, Physicians Administrative Defense Reimbursement Coverage.

2. **No Payment of Damages - Defense Only.** In addition to the Common Exclusions in PART V 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 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.

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COVERAGE B - Limited Professional Office Premises 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 that an Insured becomes legally obligated to pay as Damages, up to the applicable Limits of Liability shown on the Declarations Page or applicable endorsement because of Bodily Injury or Property Damage caused by an Occurrence:
 - a. That takes place at a Covered Premise; 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 or applicable coverage and that 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 Bodily Injury or Property Damage caused by an Occurrence:
 - a. That takes place at the Covered Premise; 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 that 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 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 Limited Professional Office Premises Liability Coverage.

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 while acting within the course and scope of their duties for the Named Insured.
2. This Policy provides coverage for the Named Insured or the Named Insured's Health Care Extenders, interns, externs, residents, dentists, osteopathic or other medical doctors when such professionals are endorsed onto this Policy.

C. EXCLUSIONS

No Defense or Payment of Damages. In addition to the Common Exclusions in PART V of this Policy, We will not defend any Insured nor pay Damages because of Claims that result from any of the following:

- a. Medical Incidents or costs associated with an Administrative Proceeding or an Employment-Related Civil Action.
- b. Bodily Injury or Property Damage for which any Insured may be held liable by reason of:
 - i. Causing or contributing to the intoxication of any person;
 - ii. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
 - iii. Violation of any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.
- c. Bodily Injury or Property 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 does not apply to liability arising from the maintenance or use of any Mobile Equipment, except Bodily Injury or Property 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.

- d. Property Damage to:
- i. Property an Insured owns, rents or occupies; however, We may provide limited coverage as described in PART III, Additional Benefits, Item D., Fire and Water Damage Legal Liability Coverage;
 - ii. Premises an Insured sells, gives away or abandons, if the Property Damage arises out of any part of those premises;
 - iii. Property loaned to an Insured;
 - iv. Personal property in the care, custody or control of an Insured; or
 - v. That particular part of real property on which an Insured or any contractors or sub-contractors working directly or indirectly on their behalf are performing operations, if the Property Damage arises out of those operations.
- e. Bodily Injury or Property Damage arising from the interference with a person's right to occupy his or her property undisturbed, including wrongful entry and wrongful eviction.
- f. Bodily Injury to an Insured, an Employee, Authorized Volunteer Worker or student while acting within the course and scope of their duties for an Insured.

COVERAGE C - Physicians Administrative Defense Reimbursement Coverage

THIS INSURANCE IS PROVIDED ON A CLAIMS MADE BASIS.

PART 1 - INSURING AGREEMENTS

A. DEFENSE COST REIMBURSEMENT COVERAGE

1. Administrative Proceedings

We will reimburse the Named Insured, endorsed physician, or employed licensed health care professional, for attorney's fees and costs incurred in the defense of an Administrative Proceeding up to the applicable Limits of Reimbursement as 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 coverage; and
- c. Is instituted against the Named Insured, endorsed physician, or employed 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 employed licensed health care professional is served with a Charging Document or receives notice that an Administrative Entity may investigate their Professional Conduct.

2. Employment-Related Civil Actions

We will reimburse the Named Insured, endorsed physician or employed licensed health care professional for attorney's fees and costs incurred in connection with an Employment-Related Civil Action, up to the applicable Limits of Reimbursement as shown on the Declarations Page or applicable endorsement, if the Employment-Related Civil Action:

- 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 coverage; and
- c. Is instituted against the Named Insured, endorsed physician or employed licensed health care professional during the Policy Period and is first reported to Us during the Policy Period.

B. PRACTICE INTERRUPTION EXPENSE REIMBURSEMENT COVERAGE

Subject to proof, We will reimburse the Named Insured, endorsed physician or employed licensed health care professional for all reasonable expenses and earnings lost, up to the applicable Limits of Reimbursement as 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 or Employment-Related Civil Action in which the Named Insured, endorsed physician or employed licensed health care professional is named.

PART 2 - CONDITIONS

In addition to the Common Conditions contained in Part IV of this Policy, the following Conditions apply to this Coverage:

- A. Application of Limits: The Limits of Reimbursement shown on the Declarations Page or applicable endorsement are the most We will reimburse the Named Insured, endorsed physician or employed licensed health care professional regardless of the number of:
1. Named Insureds, endorsed physicians or employed licensed health care professionals insured under this Policy;
 2. Persons or entities instituting an Administrative Proceeding or Employment-Related Civil Action against the Named Insured, endorsed physician or employed licensed health care professional;
 3. Administrative Proceedings or Employment-Related Civil Actions instituted against the Named Insured, endorsed physician or employed licensed health care professional.
- B. Limits of Reimbursement: Our total obligation under this coverage shall not exceed the Limits of Reimbursement shown as the applicable Annual Aggregate Limit on the Declarations Page or applicable endorsement.
- C. The Limits of Reimbursement are not cumulative, even if an Administrative Proceeding or Employment-Related Civil Action resulting from related acts spans more than one Policy Period.
- D. Multiple Administrative Proceedings or Employment-Related Civil Actions
1. All Administrative Proceedings or Employment-Related Civil Actions arising from:
 - a. The same act, or,
 - b. A series of similar or related acts, or,
 - c. 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 or Employment-Related Civil Action and deemed reported on the date the first Administrative Proceeding or Employment-Related Civil Action is reported to Us.
 2. The only Policy that shall apply to the Administrative Proceedings or Employment-Related Civil Actions is the Policy in force on the date the first Administrative Proceeding or Employment-Related Civil Action is reported to Us.

- E. Notice of Administrative Proceeding or Employment-Related Civil Action: The Named Insured, endorsed physician or employed licensed health care professional shall, as soon as practicable, advise Us of the receipt of formal notice of the institution of any Administrative Proceeding or Employment-Related Civil Action.
- F. Right to Settle: Nothing in Coverage C shall be construed to deny or otherwise limit the right to effect a settlement of an Administrative Proceeding or Employment-Related Civil Action.
- G. Selection of Attorneys: The Named Insured, endorsed physician or employed 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 reimburse the Named Insured, endorsed physician or employed licensed health care professional for those attorney's fees and costs up to the Limits of Reimbursement shown on the Declarations Page or any applicable endorsement.

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PART 3 – EXCLUSIONS

This Coverage is not available for:

- A. Any Claims arising from Medical Incidents or Occurrences.
- B. Any fees or costs incurred in an action against the Named Insured, endorsed physician or employed licensed health care professional, except for:
 - 1. An action brought by an Administrative Entity seeking injunctive relief;
 - 2. Employment-Related Civil Actions.
- C. Any legal action initiated by the Named Insured, endorsed physician or employed licensed health care professional except with Our prior written consent.
- D. 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 Healthcare Benefit Program.
- E. 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.
- F. Medical, psychiatric or psychological treatment the Named Insured, endorsed physician or employed 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.
- G. 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 Healthcare Benefit Program, whether initiated voluntarily or pursuant to direction by, order of, or in settlement with an Administrative Entity.
- H. A demand or order by any agency responsible for regulating disability benefits, unemployment compensation, workers' compensation or any similar law.
- I. 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.
- J. Any action under the Occupational Safety Act of 1970 or any amendments thereto, or any similar provisions of any federal, state or local law.
- K. 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.

- L. Any action by any agency responsible for enforcing securities law, Blue Sky laws or any laws relating to securities transactions or fair trade practices.
- M. Any action relating to loss of wages, fees or other loss of income, except as provided by Coverage C, Part 1B, Practice Interruption Expense Reimbursement Coverage.
- N. The violation of any lawful order from an Administrative Entity.

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PART 4 - DEFINITIONS

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

A. **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 healthcare facility regarding suspension, revocation, limitation of or other corrective action against the Named Insured, endorsed physician or employed 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 employed 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 Healthcare 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.

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

1. Conduct an Administrative Proceeding against the Named Insured, endorsed physician or employed 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 Healthcare Benefit Program.
2. Investigate and regulate compliance with statutes and regulations relating to workplace and employment practices.

C. **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 Healthcare 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 other employed licensed health care professional.

- D. **Employment-Related Civil Action** means a civil legal action naming the Named Insured, endorsed physician or employed licensed health care professional as a defendant that is based on alleged acts or omissions relating to their conduct as an employer or supervisor.
- E. **Healthcare 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.
- F. **Professional Conduct** means any activity engaged in by the Named Insured, endorsed physician or employed 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.

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PART III ADDITIONAL BENEFITS

The following benefits are in addition to the Limits of Liability shown on the Declarations Page. 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 and/or B of this Policy. In addition to the Limits of Liability for Coverages A and B 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.

D. **FIRE AND WATER DAMAGE LEGAL LIABILITY COVERAGE.** We will pay on behalf of the Named Insured all sums up to \$500,000 for each Claim and \$500,000 aggregate per Policy Period that the Named Insured becomes legally obligated to pay as Damages resulting from an Occurrence that causes Property Damage to non-owned Covered Premises, or portions thereof, an Insured rents, uses, occupies or controls, including fixtures permanently attached thereto, caused by:

1. Fire including smoke, heat and fumes resulting therefrom;
2. Discharge, leaking or overflow of water or steam from plumbing, heating or refrigeration or air conditioning systems; or

3. Rain coming into the building through open or defective doors, windows, skylights, transoms or ventilators.

This Policy does not otherwise cover damage to property owned, occupied, rented, used or controlled by an Insured.

E. MEDICAL PAYMENTS.

1. We will pay on behalf of an Insured reasonable and necessary Medical Expenses not exceeding \$10,000 per person for Bodily Injury caused by an Occurrence resulting from operations of the Named Insured on Covered Premises and on ways next to Covered Premises.
2. We will not pay Medical Expenses for Bodily Injury:
 - a. To any Insured.
 - b. To a person hired to work for or on behalf of any Insured or a tenant of any Insured.
 - c. To a person injured on that part of the Covered Premises that the person normally occupies.
 - d. 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, disability benefits law or a similar law.
 - e. To a person injured while taking part in athletics.
 - f. To a person while receiving Professional Health Care Services.

PART IV 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 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 O, "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 or Occurrence regardless of the number of:
 - i. Insureds under the Policy;
 - ii. Persons or organizations sustaining Damages;
 - iii. Claims; or
 - iv. Coverage parts attached hereto.
 - b. Subject to the above provision, Our total liability for all Claims because of all injury 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.
 - 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 Limits 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 - An Insured Covered by 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.

4. Application of Limits of Liability - New Limits.

If the Named Insured changes the Limits of Liability provided by this Policy the new Limits of Liability do not apply to any Claim 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 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 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 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 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 law 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 the Insured of its 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.

We may cancel this 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 the policy or an Insured's coverage has been in effect less than sixty (60) days since the applicable Effective Date, either may be canceled 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 the Named Insured or 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 in writing. 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. **Dividends/Premium Credits.** As an insured member of a mutual insurance company, the Named Insured may be eligible to receive dividends during the Policy Period. Dividends are subject to the laws of the state in which the Named Insured is principally domiciled.

The record date, amount of the dividends and form of the dividends are determined by the Board of Directors of NORCAL. Dividends are available to the Named Insured only if the date of distribution specified by the Board of Directors in the dividend declaration resolution is within the Policy Period.

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 or Occurrence 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 or Occurrence.
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, Administrative Proceedings or Employment-Related Civil Actions.** If any Insured reports a Claim, Administrative Proceeding or Employment-Related Civil Action knowing it to be in any way false or fraudulent, this insurance shall become null and void with respect to that Claim, Administrative Proceeding or Employment-Related Civil Action. If so, We have the right to full recovery of any payment We have already made.

- K. **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.
- L. **Inspection and Audit.** We, or Our representative, shall be permitted but not obligated to inspect the Covered Premises 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.
- M. **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 Limits of Liability.
- N. **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 N.), 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 or Occurrence 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 any loss or Defense Costs for any Claim arising from any Occurrence or Medical Incident 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 N., "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.

O. Multiple Claims Arising From The Same Circumstances.

1. All Claims that arise from:

- a. The same Medical Incident or Occurrence; or
- b. A series of similar or related Medical Incidents or Occurrences;

will be deemed to be a single Claim on the date the first of such Claims is reported to Us.

2. The only policy that shall apply to the Claim is the policy in force on the date the first of such Claims is reported to Us.

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 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. **Practice Changes.** This insurance is issued based on the written representation concerning an Insured's practice. We must be notified immediately, in writing, if there are any changes from what was described in the original application, application update or other written communication. These changes include, but are not limited to, changes in an Insured's practice, partners and associates, medical license, professional office premises; or changes in the following staff: Health Care Extenders, interns, externs, residents, dentists, osteopathic or other medical doctors, or practice locations, medical procedures, or administrative responsibilities or changes in the status of any hospital privileges.

Coverage for Claims that result from Medical Incidents or Occurrences happening on or after the date of any of these changes is contingent upon such notification and Our approval thereof.

- S. **Premium.** All premiums for this Policy will be computed in accordance with Our rules, rates and rating plans in effect for the period in which those premiums are due.

All premiums, including deposit and audit premiums, shall be paid by the due date specified on the premium billings. There is no grace period in this Policy for payment of premium.

All Insureds 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.

- T. **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 used 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 or Occurrences 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 or Occurrence happening on or after the Effective Date of such transaction.

- U. **Separation of Insureds.** Except for any rights or duties specifically assigned to the Named Insured, this insurance applies separately to each Insured against whom a Claim is made.
- V. **Special Statutes.** All provisions of this Policy that are in conflict with statutes of the state in which the Named Insured is principally domiciled are amended to conform to such statutes.
- W. **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.
- X. **Voting Rights.** As an insured member of a mutual insurance company, the Named Insured, and each physician to whom a separate limit of liability has been afforded, 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 by-laws of NORCAL.
- Y. **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 or Occurrence 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 or Occurrence 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 or Occurrence.

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.

- Z. **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 that occurred 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 to an Insured and remains in force.

We reserve the right to assess and collect a premium for the ability to continue to report such Claims. If a premium is assessed by Us and not paid there is no right to report such Claims.

PART V COMMON EXCLUSIONS

No Defense or Payment of Damages.

We will not defend any Insured nor pay Damages because of Claims that result from any of the following:

A. 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.

This exclusion does not apply to liability for Damages:

- a. Assumed in a contract or agreement that is an Insured Contract; or
- b. That an Insured would have had in the absence of the contract or agreement.

B. 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.

- C. 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.
- D. 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, except as may be provided in Coverage C, Physicians Administrative Defense Reimbursement Coverage.
- E. Any liability arising from any Employment Practices, including consequential Bodily Injury, except as may be provided in Coverage C, Physicians Administrative Defense Reimbursement Coverage.

This exclusion applies whether the Insured may be held liable as an employer, or in any other capacity, and to any obligation to share Damages with or to repay someone else who must pay Damages because of the injury.

- F. Any liability of any individual(s) or organization(s) acting as an independent contractor for any Insured unless specifically endorsed onto the Policy.

- G. Any liability for a Claim whose circumstances were known, or should have been known, to an Insured or any insurer before the “Policyholder Since” date shown on the Declarations Page, or, in the case of a newly acquired entity, before the acquisition date of that entity.
- H. Any liability arising from administrative or management services provided by an Insured, or independent contractors retained by an Insured, to another organization not owned by the Named Insured unless specifically endorsed onto this Policy. This exclusion applies whether or not monetary or other consideration is received for such services.
- I. 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.
- J. Any liability for:
1. Bodily Injury or Property 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, re-mediating 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.
- K. 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.
- L. 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.
- M. 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 Defense Costs if liability is admitted or found by judgment or any other way that they 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.
- N. Any liability arising from the willful violation of any statute or ordinance committed with the knowledge or consent of an Insured.
- O. Any obligation that an Insured or any of its insurers may have under Workers' Compensation, Employers' Liability, Unemployment Compensation, Disability Benefits, or any indemnification obligation the entity has 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 including, but not limited to, any injury to:
1. An Employee of the Insured arising from and in the course of employment by the Insured; 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.
- P. Any liability arising from 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.
- Q. 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 1985 (COBRA) and amendments to either or similar provisions of any federal, state or local statutory law or common law.
- R. Any liability arising from nuclear reaction, radiation or radioactive contamination, or any consequence of these, except as a direct result of providing Professional Health Care Services.
- S. Any liability occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, confiscation, nationalization, requisition of, destruction of, or damage to property by, or under the order of, any government, public or local authority.
- T. 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.

SPECIMEN

PART VI DEFINITIONS

There are defined terms that are 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. **Asbestos** means asbestos and any other allied compound, substance or product or fibers thereof that are used as a non-combustible, non-conducting or chemically resistant material.
- B. **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.
- C. **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.
- D. **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.
- E. **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 result from the above.
- F. **Claim** means:
1. Actual Claim:
Written notice or demand for Damages that an Insured has received regarding a Medical Incident or Occurrence; or,
 2. Potential Claim:
Any Medical Incident or Occurrence that may result in an actual Claim.
- An event reported as part of Our risk management or loss control services shall not be considered a report of a Claim.
- G. **Coverage Territory** means 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.
- H. **Covered Premise** means any professional office premise that is owned, occupied, rented, used or controlled by an Insured and that has been reported to Us and approved by Us in writing.

Covered Premise does not include any premise that has been abandoned or has been vacant for 90 days or more.

- I. **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, except 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.
- J. **Defense Costs** means the reasonable fees of attorneys, experts and consultants' costs and expenses 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.
- K. **Discrimination** means the unlawful treatment of individuals based on race, color, ethnic origin, ancestry, gender, sexual orientation, age, religion, physical or mental disability, marital status or other status that is protected under any applicable federal, state or local statute or ordinance.
- L. **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.
- M. **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; or
 9. Failure to implement appropriate workplace or employment policies or procedures.
- N. **Fungi** means any type or form of fungus, including mold, mildew and any mycotoxins, spores, scents or byproducts produced or released by Fungi.
- O. **Health Care Extender** means a certified registered nurse anesthetist, nurse midwife, nurse perfusionist, nurse practitioner, physician assistant, preceptee or podiatrist.
- P. **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, limited liability partnership or corporation, that partnership, joint venture, limited liability partnership or corporation, and any partner, member or shareholder thereof, is an Insured, but only for their liability as such. No person or organization is an Insured with respect to the conduct of any current or past partnership, joint venture, 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, or any entity under subsection 4 below, while acting within the scope of their duties as such.
 4. Any organization an Insured newly acquires or forms other than a partnership or joint venture in which the Named Insured maintains majority ownership or majority interest, and for which the premium has been paid to Us.
- Q. **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;
- 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.

R. **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; but 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.

S. **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.

T. **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.

U. **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 or 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 or 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.

V. **Named Insured** means the person or organization named on the Declarations Page of this Policy as Named Insured.

W. **Occurrence** means an accident including continuous or repeated exposure to substantially the same conditions, resulting in Bodily Injury or Property 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.

- X. **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.
- Y. **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.
- Z. **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. in the state in which the Named Insured is principally domiciled.
- AA. **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 materials or irritants. Waste includes, but is not limited to, spent fuel and byproducts, medical waste and any material to be recycled, reconditioned or reclaimed.
- AB. **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.
- AC. **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 on Accreditation of Healthcare Organizations, 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.

AD. **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.

AE. **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.

AF. **Retroactive Date** as set forth in Item 4 of the Declarations Page, or applicable endorsement, is the earliest date on which a Medical Incident or Occurrence may occur and for which coverage may be afforded under this Policy. With respect to Coverage C, Physician's Administrative Defense, it is the earliest date on which an act can occur that results in an Administrative Proceeding or Employment-Related Civil Action.

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

PART VII EXTENDED REPORTING PERIOD OPTION

IF AN EXTENDED REPORTING PERIOD ENDORSEMENT IS NOT ISSUED OR PURCHASED, THERE WILL BE NO COVERAGE FOR CLAIMS, ADMINISTRATIVE PROCEEDINGS OR EMPLOYMENT-RELATED CIVIL ACTIONS THAT ARE FIRST REPORTED TO US ON OR AFTER THE EXPIRATION OR TERMINATION DATE OF THIS POLICY OR THE APPLICABLE COVERAGE.

This Extended Reporting Period Endorsement must be requested by written notice to Us within thirty (30) days from the expiration or termination date of this policy or applicable coverage.

A. MUTUAL RIGHTS

The Named Insured and an insured physician to whom separate limits of liability have been afforded (hereinafter "Insured Physician"), 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. This endorsement provides an extended period of time for reporting Claims, Administrative Proceedings or Employment-Related Civil Actions as follows:

1. Medical Incidents or Occurrences 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 an Insured's coverage that result in an Administrative Proceeding or Employment-Related Civil Action instituted against that Insured and first reported to Us under the Extended Reporting Period Endorsement.

To purchase an Extended Reporting Period Endorsement the Named Insured and/or the Insured Physician must be in compliance with all terms and conditions of the Policy. We will not issue an Extended Reporting Period Endorsement to the Named Insured or an Insured Physician whose coverage has been canceled or non-renewed for fraud, misrepresentation, concealment or breach of warranty. Nor will We issue an Extended Reporting Period Endorsement to an Insured if this Policy is canceled for non-payment or rescinded.

All outstanding earned premiums must be paid. 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.

Additionally:

1. Once in effect, the Extended Reporting Period Endorsement may not be canceled unless the 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.
2. 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 Claim, Administrative Proceeding or Employment-Related Civil Action reported to Us must be covered by this Policy.
3. The Extended Reporting Period Endorsement is subject to all of the provisions of the policy in existence at the time an Insured's active coverage ceases.
4. 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.

B. SPECIAL PROVISIONS For Insured Physicians

1. Waiver of Extended Reporting Period Endorsement Premium in the Event of Disability.

- a. If an Insured Physician becomes totally and permanently disabled during the Policy Period as a result of Bodily Injury and is therefore completely unable to continue practicing as a physician or surgeon, We will provide an Extended Reporting Period Endorsement without cost. This waiver of premium is contingent upon receipt of evidence satisfactory to Us, which may include a physical examination by physicians of Our choice, that such Insured Physician is totally and permanently disabled. However, We must receive a written request from the Insured Physician or his/her personal representative for this benefit within 30 days after the cessation of his/her practice.
- b. We will require proof satisfactory to Us that disability continues on each anniversary of the issuance of the Extended Reporting Period Endorsement. If at any time in the future the Insured Physician resumes practicing as a physician to any extent, any Extended Reporting Period Endorsement issued pursuant to this provision will terminate on the date practice is resumed. The Insured Physician will have the right to purchase an Extended Reporting Period Endorsement upon payment of the full premium. If no Extended Reporting Period Endorsement is purchased following the resumption of practice there will be no coverage for Claims, Administrative Proceedings or Employment-Related Civil Actions reported to Us after the termination of the Extended Reporting Period Endorsement issued above.

2. Waiver of Extended Reporting Period Endorsement Premium in the Event of Death.

In the event of the death during the Policy Period of an Insured Physician an Extended Reporting Period Endorsement will be issued to that Insured Physician's estate without

any premium charge. This Extended Reporting Period Endorsement will become effective on the date of the Insured Physician's death. However, We must receive a written request along with proof of death within sixty (60) days after the Insured Physician's death.

3. Waiver of Extended Reporting Period Endorsement Premium upon Retirement at Age 60.

If during the Policy Period, an Insured Physician chooses to retire completely from the practice of medicine, he/she may be eligible for a full waiver of the Extended Reporting Period Endorsement premium. To be eligible an Insured Physician must, as of the requested cancellation date:

- a. Have been continuously insured with Us for the 60 months immediately prior to claiming this benefit;
- b. Be at least 60 years of age; and
- c. Retire completely from the practice of medicine.

We must receive a written request for this benefit at least 30 days in advance of the Insured Physician's retirement date. We will periodically require proof satisfactory to Us that the Insured Physician remains retired from the practice of medicine. If at any time in the future the Insured Physician resumes practicing as a physician to any extent, this premium waiver will be lost as of the date the Insured Physician resumes practice. However, the Insured Physician will have the right to purchase an Extended Reporting Period Endorsement upon payment of the full premium. If no Extended Reporting Period Endorsement is purchased following the resumption of practice, there will be no coverage for Claims, Administrative Proceedings or Employment-Related Civil Actions reported to Us after the termination of the Extended Reporting Period Endorsement issued pursuant to this paragraph.



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