THE DOCTORS COMPANY
Risk Retention Group

HEALTHCARE PROFESSIONAL LIABILITY POLICY

An Occurrence Policy

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This is a nonassessable Occurrence Coverage Insurance Policy.

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

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INTRODUCTION

This Policy protects against liability *Claims* that result from **your** healthcare practice, but it also contains restrictions and limitations. Please read this Policy and all Endorsements carefully to determine what is and what is not covered, as well as the rights and duties of the parties under this Policy.

This Policy consists of this policy form, a Declarations Page, Declarations Page Schedule, and one or more Endorsements. Endorsements change the Policy and may be added or removed from time to time. References to the Declarations Page include modifications made by Endorsement or by reissuance. **You** and **we** agree that this constitutes the entire agreement between **you** and **us**.

Terms that are printed in italics are defined in Section VII: Definitions. Terms that begin with capital letters or are printed in bold type have meanings referenced, in whole or in part, elsewhere in this Policy.

The words "**we**," "**us**," and "**our**" refer to the insurance company shown in the Declarations Page.

Unless specified otherwise, the words "**you**" and "**your**" refer to each applicable Insured under this Policy.

We provide this insurance Policy in consideration of the full payment of all premiums when due and in reliance on the truthfulness of all of the statements in your application, including any renewal application, and any other documents submitted to **us** for purposes of obtaining, retaining, or modifying this insurance.

Section I: Who Is an Insured

Each of the following is an Insured under this Policy:

a. The *First Named Insured*.

b. A *Healthcare Professional*, if designated as a *Named Insured* or an *Additional Insured* in the Declarations Page.

c. A *Locum Tenens*.

Coverage for a *Locum Tenens* is subject to all the provisions that apply to the *Healthcare Professional* for whom he or she is substituting. Such persons are *Additional Insureds* and share limits as set forth in Section IV: Limits of Liability.

However, a *Locum Tenens* is not an Insured for any *Claim* for which he or she has *Other Insurance.*

d. A current or former *Employee* or *Volunteer*:

1. Who is not a *Healthcare Professional*;

2. While acting within the course and scope of duties assigned by a *Named Insured*; and

3. For whose acts a *Named Insured* is legally responsible.

Such *Employees* and *Volunteers* are *Additional Insureds* and share limits as set forth in Section IV: Limits of Liability.

e. The *Solo Medical Corporation* of the *First Named Insured* or *Healthcare Professional* as described in a. or b. above. A *Solo Medical Corporation* is an *Additional Insured* and will share limits as set forth in Section IV: Limits of Liability.

f. If a *Named Insured* dies during the *Policy Period*, his or her estate will be an Insured.

g. Any other person or organization designated as an Insured in an Endorsement.

Section II: What Liability Is Covered

We will pay on behalf of an Insured those sums that said Insured becomes legally obligated to pay as *Damages* for *Claims* covered by this Policy:

a. Less any applicable deductible or excess of any applicable retention; and

b. Up to the Limits of Liability as set forth in Section IV: Limits of Liability.

Section III: When This Policy Will Respond

Claims are covered under this Policy only if and when the *Claim* directly results from a *Professional Services Incident* or *Review Incident* that takes place in the *Covered Territory* during the *Policy Period*.

This Policy will respond only once to a *Claim* or *Probable Claim Event* on behalf of each Insured. If a *Professional Services Incident* or *Review Incident*, meeting all the requirements for coverage in effect during this *Policy Period* occurs during this *Policy Period,* then all subsequent related *Claims* arising from the same *Professional Services Incident* or *Review Incident* or series of related *Professional Services Incidents* or *Review Incidents* at any time, of any nature, by anyone, shall be deemed a single *Claim* subject to all provisions in effect during this *Policy Period*, including the Limits of Liability.

Section IV: Limits of Liability

The Limit of Liability shown in the Declarations Page for each *Named Insured* is the maximum amount **we** will pay for *Damages* for liability covered by this Policy for that *Named Insured*, less any applicable deductible amount and excess of *Other Insurance* as described in Section VIII. o. 2: Excess Insurance. **We** will pay defense costs and Supplemental Benefits, as described in Section V: Defense and Settlement, in addition to the Limit of Liability.

The Claim Limit and Aggregate Limit apply separately to each *Named Insured*.

a. *Additional Insureds*

A separate limit does not apply to an *Additional Insured*. Instead, an *Additional Insured* shares in the Limit of Liability of a *Named Insured*, as set forth below:

1. If Limits of Liability for Coverage B are shown in the Declarations Page, then sums payable on behalf of any *Additional Insured(s)* will be shared with and paid from the Limits of Liability for Coverage B.

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2. If Limits of Liability for Coverage B are not shown in the Declarations Page, then sums payable on behalf of any *Additional Insured(s)* will be shared with and paid from the Limits of Liability for Coverage A of the *Named Insured* applicable to such *Claim*, as determined by **us** in **our** sole judgment.

3. A *Locum Tenens* serving in the place of a *Named Insured* shares in that *Named Insured's* Coverage A Limits of Liability, even if Coverage B is shown in the Declarations Page.

However, an *Additional Insured* will share in the Claim Limit of only one *Named Insured*.

b. Claim Limit

One Claim Limit is the maximum **we** will pay for each *Named Insured* for all *Damages* arising from any or all of the following:

1. *Professional Services Incidents* relating to the same patient.

   Parents and their child or children shall be deemed for all purposes to be one patient for all *Claims* relating to conception, pregnancy, birth, and postpartum care;

2. All family members, including domestic partners, whether or not recognized at law;

3. Substantially the same course of conduct;

4. Any one *Review Incident* relating to substantially the same course of conduct; and

5. Any *Claim* against an *Additional Insured*.

c. Aggregate Limit

The Aggregate Limit is the maximum amount **we** will pay for all liability arising from all *Claims* covered by this Policy. A separate Aggregate Limit applies to each *Named Insured*. If Limits of Liability are shown in the Declarations Page for Coverage B, a separate Aggregate Limit also applies to the *First Named Insured*. The applicable Aggregate Limit applies regardless of how many persons or entities are protected by this Policy, how many *Claims* or causes of action have been asserted against any Insured, how many persons or entities have alleged *Damages*, or how many *Suits* have been brought.

The available Aggregate Limit of each *Named Insured* is reduced by all amounts **we** pay for liability covered with respect to that *Named Insured*.

Section V: Defense and Settlement

a. Investigation and Defense

1. **We** may, at **our** sole discretion, investigate any *Professional Services Incident* or *Review Incident*. **We** have the right and duty to defend a *Suit* brought against **you**. However, **we** have no duty to defend any *Suit* to which this insurance does not apply. In any *Suit* **we** defend, **we** will select the legal counsel to defend **you**. **You** may also choose to have **your** own legal counsel, but **we** will not pay any fees or costs related to such counsel.

2. Once the applicable Claim Limit or Aggregate Limit is exhausted by **our** payment of *Damages*, **our** obligation to pay Supplemental Benefits or to defend any *Suit*, whether already reported to **us** or reported to **us** thereafter, will end.

b. Consent to Settle

1. **We** will obtain written consent from the applicable *Named Insured* before **we** settle a *Claim* against that *Named Insured* arising from a *Professional Services Incident*. Once consent is obtained, **we** may, at **our** discretion, settle that *Claim*. Consent is not required under the following circumstances:

   i. Verdict is entered.

   ii. The *Named Insured* is deceased or adjudicated incompetent.

   iii. The *Named Insured's* license to practice medicine is suspended, revoked, or surrendered at any time before or during the pendency of the *Claim*.

   iv. The *Named Insured*, after reasonable efforts by **us**, cannot be located.

   v. The Insured is not a *Named Insured* on an active Policy with **us** at the time of settlement.

2. **We** have the right, without **your** consent, to settle *Claims* arising from *Review Incidents* and any *Claims* against any *Additional Insured*. **We**

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may, at **our** discretion, investigate any such incident and settle any *Claim* that may result.

c. Supplemental Benefits

We pay Supplemental Benefits in addition to the Limits of Liability.

1. **Interest on Judgments. We** will pay post-judgment interest that is incurred after entry of judgment. **We** will pay such interest on that portion of a judgment that:

   i. is covered under this Policy; and

   ii. does not exceed the applicable Claim Limit.

2. **Court Costs. We** will pay all necessary court costs incurred in **your** defense, but not any sanctions, fines, or penalties, assessed against **you**, such as for **your** contempt of court.

3. **Appeal Bonds.** If **we** elect, at **our** sole discretion, to appeal a judgment, **we** will pay the premium for any necessary appeal bonds or release of attachment bonds. This applies only to that portion of the judgment that is covered by this Policy and within the applicable Claim Limit.

4. **Expenses.** If **you** attend trial or arbitration at our request, **we** will reimburse **you**, upon **your** request, for lost wages or income, up to our loss of earnings allowance rates in effect at the time of the trial or arbitration. **We** will also reimburse **you** for reasonable expenses, other than lost wages or income, that **you** incur while participating at **our** request in **our** defense of a covered *Claim* or *Probable Claim Event*.

5. **Deposition Representation. We** will provide **you** with representation if **you** receive a deposition subpoena for which **you** are not a named party in a *Claim* or *Suit*. The deposition must be related to *Professional Services* **you** rendered while insured with **us**.

Section VI: Exclusions

The following Exclusions apply even if the acts or subject matter described in the Exclusions are intertwined with or inseparable from the rendering of *Professional Services*. **We** will not pay any *Damages* arising from, or defend against, any actual or alleged:

a. Liability any Insured assumes under any contract.

However, this Exclusion does not apply to liability, if otherwise covered by this Policy, for such Insured's sole negligence in the rendering or failing to render *Professional Services*.

b. Liability for any:

1. *Claim* made against **you** prior to the *Effective Date*; or

2. *Claim* or *Probable Claim Event* of which **we** or any provider of *Other Insurance* were informed prior to the *Effective Date*.

c. Liability arising from any *Claim* that includes contentions or descriptions of *Sexual Conduct* by **you** or anyone for whom **you** may be legally responsible.

However, this Exclusion does not apply to **our** defense of a *Suit*.

d. Liability arising out of any:

1. Fraudulent or malicious acts or acts reasonably expected or intended to cause harm;

2. Criminal acts;

3. Violation of any statute, code, ordinance, or regulation;

4. Unfair business practice or the violation of any consumer protection law, including any law that prohibits the monopolization or unlawful restraint of trade, business, or profession;

5. Violation of any civil rights law;

6. Disputes about **your** fees, including collecting fees from third parties; or

7. Qui tam or similar *Claims*.

e. Liability arising from the design, manufacture, use, purchase, distribution, promotion, or sale of any non-FDA-approved medication, device, equipment, or protocols.

However, this Exclusion does not apply to **your** *Professional Services* related to a clinical trial of a non-FDA-approved medication, device or equipment, or protocol when the applicable

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Institutional Review Board (IRB) has approved the trial in writing.

f. Liability arising from any design, manufacture, assembly, sale, trade, distribution, or promotion of any product.

However, this Exclusion does not apply to **your** furnishing or dispensing of pharmaceuticals, medications, or drugs or medical, surgical, dental, or psychiatric supplies, equipment, or appliances to **your** patients while **you** are providing *Professional Services*.

g. Liability arising from any *Professional Services* that an Insured renders outside of his or her specialty as listed on the Declarations Page and as limited by his or her representations in any application or renewal applications for insurance.

h. Liability for any of the following awarded against **you**:

1. Sanctions, fines, or penalties;

2. Punitive, exemplary, or multiplied Damages; or

3. Attorney's fees imposed by statute.

However, this Exclusion does not apply to **our** defense of a *Suit*.

i. Liability arising from activities related to **your** employment by a federal, state, county, or other governmental entity.

However, this Exclusion does not apply to:

1. *Professional Services* **you** render as a result of a non-employment contract with a governmental entity; or

2. Acts on behalf of the *First Named Insured* if the *First Named Insured* is a governmental entity.

j. Liability arising from **your** activities as a medical director, owner, superintendent, executive officer, director, partner, trustee, agent, shareholder, manager, or *Employee* of any enterprise that is not an Insured under this Policy.

k. Liability to **your** prospective, current, or former *Employees* or independent contractors or their family members, including domestic partners, whether or not recognized at law.

This exclusion does not apply when such person is receiving *Professional Services* as a patient.

l. Liability arising from any *Claim* that includes contentions or descriptions of **your** abuse of, or being under the influence of, alcohol, drugs, or any other substance.

However, this Exclusion does not apply to **our** defense of a *Suit*.

m. Liability arising from *Professional Services* performed by or *Review Incidents* related to an Insured whose required license, certification, or license to dispense or prescribe controlled substances is under suspension or has been restricted, revoked, surrendered, or otherwise terminated at the time *Professional Services* or *Review Incidents* take place.

n. Liability arising out of the acts of any Insured that exceed the course or scope of his or her duties for the *First Named Insured*. This Exclusion does not apply to:

1. A *Named Insured* who is a Medical Doctor (MD) or Doctor of Osteopathic Medicine (DO); or

2. *Professional Services Incidents* that take place during the *Prior Acts Period*.

o. Liability arising out of the acts of a *Healthcare Professional* who is not an Insured under this Policy.

However, **we** will provide a defense to the Insured for the following if alleged as part of a *Suit*, but we will not pay any *Damages* for:

1. Liability resulting from the acts of a *Locum Tenens*, provided he or she has *Other Insurance*; or

2. Liability resulting from the acts of a *Healthcare Professional* insured by **us** under a separate policy.

p. Liability for any *Claim* otherwise covered by this Policy if you fail to comply with any of **your** duties described in Section VIII. g: **Your** Duties in the Event of a *Claim* or *Probable Claim Event* or Section VIII. h: Alteration of Records.

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Section VII: Definitions

a. ***Additional Insured*** means each person or organization designated as an *Additional Insured* in the Declarations Page or described as an *Additional Insured* in Section I: Who Is an Insured.

b. ***Claim*** means a demand for payment of *Damages* or for services caused by a *Professional Services Incident* or *Review Incident* that is not otherwise excluded by the terms and conditions of this Policy.

c. ***Contracted Worker*** means a person whose service or labor is supervised by a *Named Insured* but is:

1. Not a *Healthcare Professional*; and

2. Not **your** *Employee*.

d. ***Covered Territory*** means the state or territory of the United States for which:

1. **You** are licensed to practice medicine; and

2. **You** have advised **us** in writing that **you** practice medicine.

With respect to an entity insured by this Policy, the *Covered Territory* means those states and territories where the *Healthcare Professionals* insured under this Policy satisfy paragraphs 1 and 2 above.

e. ***Damages*** means those amounts of money which are legally payable because of injury to which this insurance applies. *Damages* includes an award of attorney's fees to a claimant and payment of pre-judgment interest.

f. ***Departure Date*** means the date shown on the Declarations Page when a person or entity ceases to be an Insured. With respect to that Insured, the *Policy Period* ends on the *Departure Date*.

g. ***Effective Date*** means the date and time when the Policy begins as set forth in the Declarations Page.

h. ***Employee*** means a person:

1. Who is not a *Healthcare Professional*;

2. Whose service or labor is supervised by a *Named Insured*; and

3. Who is on the payroll of the *First Named Insured* or a *Named Insured* and subject to the withholding of taxes, whether working on a full- or part-time basis.

i. ***First Named Insured*** means the person or entity designated as such on the Declarations Page.

j. ***Healthcare Professional*** means a Medical Doctor; Doctor of Osteopathic Medicine; Doctor of Dental Surgery; Doctor of Dental Medicine; Doctor of Podiatric Medicine; Doctor of Chiropractic; Naturopathic Doctor; Doctor of Optometry; Perfusionist; Doctor of Nursing Practice; Psychologist; Certified Registered Nurse Anesthetist; Midwife; Nurse Practitioner; Physician Assistant; or Surgeon Assistant.

k. ***Locum Tenens*** means a temporary, substitute *Healthcare Professional* whom a *Named Insured* has designated in advance to provide *Professional Services* for specific dates of substitution for a specific Insured, but only when:

1. The *Locum Tenens* is acting within the scope of duties of the *Healthcare Professional* for whom he or she is substituting;

2. Such *Locum Tenens'* specialty, training, licensing, and certification are equivalent to that of the *Healthcare Professional* for whom he or she is substituting;

3. The total time of substitution for any one *Healthcare Professional*, by all of his or her *Locum Tenens*, does not exceed 30 days during this *Policy Period*;

4. The total time of substitution by any one *Healthcare Professional* as a *Locum Tenens*, for all Insureds combined, does not exceed 30 days during this *Policy Period*; and

5. **We** do not, in writing, prohibit the use of such *Locum Tenens*.

Paragraphs 2, 3, and 4 do not apply to a *Locum Tenens* specifically named in an Endorsement to this Policy.

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Locum Tenens does not include a *Healthcare Professional* providing *Professional Services* concurrently with the Insured for whom such *Locum Tenens* is serving.

l. ***Named Insured*** means each person or organization listed as a *Named Insured* in the Declarations Page.

m. ***Other Insurance*** means any insurance, self-insurance, self-insured retention, self-insured trust, or risk transfer instrument of any kind, other than this Policy.

n. ***Policy Period*** means the period of time stated in the Declarations Page, beginning with the *Effective Date* and ending with the expiration date, or any earlier date of actual termination, at 12:01 AM at the principal address of the *First Named Insured*. If **you** become an Insured under this Policy after the *Effective Date*, then the *Policy Period* begins on the date **you** became an Insured. If the Declarations Page includes a *Departure Date* for an Insured, such Insured's *Policy Period* ends on the *Departure Date*. The *Policy Period* ends on the date any person or entity ceases to be an Insured.

o. ***Probable Claim Event*** means a *Professional Services Incident* or Review Incident that any Insured reasonably should know or should have known may give rise to a *Claim*.

p. ***Professional Services*** means the diagnosis, treatment, care of, or consultation regarding a patient's medical condition, including:

1. Autopsy services;

2. Rendering or failing to render emergency medical treatment in good faith and without compensation or the expectation of compensation.

q. ***Professional Services Incident*** means the performance of or failure to perform *Professional Services* resulting in injury to a patient by:

1. An Insured *Healthcare Professional*, when acting within the scope of his or her specialty and training; or

2. An *Employee*, *Contracted Worker*, or *Volunteer*:

   i. When acting within the scope of his or her training and licensing;

   ii. When acting within the course and scope of duties for a *Named Insured*; and

   iii. For whose acts a *Named Insured* is legally responsible.

Professional Services Incident does not include matters in whole or in part covered by a MediGuard or CyberGuard Endorsement attached to this Policy.

r. ***Review Incident*** means performance by a *Named Insured*, or by any Insured acting on behalf of a *Named Insured*, of duties as a member of any of the following:

1. A health care staff committee that conducts credentialing, quality assurance, peer review, or medical ethics review. As used in this definition, committee means facility, society, or group;

2. A committee of a state or county medical association or a medical specialty society committee that conducts credentialing, quality assurance, peer review, or medical ethics review;

3. A medical group committee that conducts credentialing, quality assurance, peer review, or medical ethics review; or

4. A peer review program conducted by us.

Review Incident does not include your services to an organization that reviews utilization, necessity, or treatment issues related to controlling health care costs.

Review Incident does not include matters covered by a MediGuard or CyberGuard Endorsement attached to this Policy.

s. ***Sexual Conduct*** means sexually suggestive contact or activity, engaging in or soliciting sexual relations, sexual abuse, sexual assault, sexual battery, sexual intimacy, sexual exploitation, sexual harassment, or any acts punishable as a sexually related crime.

t. ***Solo Medical Corporation*** means a professional corporation organized under the corporation law of **your** state that is authorized to practice medicine and has an individual Insured *Healthcare Professional* as its only shareholder.

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u. ***Suit*** means a civil proceeding that seeks *Damages*. *Suit* includes:

1. An arbitration proceeding in which *Damages* are claimed and to which **you** must submit or do submit with **our** written consent;

2. Any other alternative dispute resolution proceeding in which *Damages* are claimed and to which **you** must submit or do submit with **our** written consent; or

3. A pre-suit, screening panel, or similar proceeding mandated by the laws of **your** state.

v. ***Volunteer*** means a person who is not a *Healthcare Professional* and whose service is uncompensated from any source and is directed by a *Named Insured*

Section VIII: General Rules

The obligations described in the rules apply to each Insured, except where the rule specifies otherwise. If any Insured materially fails to comply with his, her, or its obligations under the Policy, **our** obligations to such Insured will terminate. Such obligations may include **our** duty to defend, indemnify, prosecute, or continue litigation. Failure to comply may also result in cancellation or nonrenewal of this Policy.

a. Special Rights and Duties of the *First Named Insured*

The *First Named Insured* has special rights and duties, including the following:

1. The *First Named Insured* is responsible for paying all premiums for all Insureds and will be the one to whom **we** will send any return premium due.

2. **We** will send all invoices and notices to the *First Named Insured*.

3. The *First Named Insured* is responsible for paying any deductible or retention.

4. The *First Named Insured* has the right to receive from **us** any information pertaining to this Policy that **we** provide to any Insured. This includes information regarding any *Claims* or incidents reported and any benefits requested or provided under the Policy. Other Insureds should not have an expectation of privacy with respect to **our** providing this information to the *First Named Insured*.

Knowledge by the *First Named Insured* of the Insuring Agreements, Definitions, Exclusions, Endorsements, and all other provisions of the Policy shall be deemed to be knowledge by all Insureds.

b. Your Premium

Your premium is due on or before the *Effective Date*. If payment is not received by **us** on or before the *Effective Date*, **your** Policy will lapse and no coverage will be in effect.

Any late or partial payment accepted by **us** is done so conditionally. **We** will notify the *First Named Insured* if **your** payment was accepted conditionally and what steps will be required to renew or reinstate the Policy.

If there has been a substantial change in risk and **we** have agreed in writing to accept such change, then **we** have the right to adjust **your** premium.

If **we** base **your** premium on estimated information, **we** have the right to adjust **your** premium once **we** review the actual information. If that final premium is higher than the estimated premium, **you** will owe **us** the difference; if lower, **we** will credit the difference to **you**.

c. Your Affirmative Duty to Report Changes

If any *Named Insured's* scope of health care practice, locations, or business operations change, **you** must inform **us** in writing immediately of any such changes.

For example, **you** must inform **us** of any of the following:

1. If **you** change **your** specialty;

2. If **you** intend to perform any procedures other than those **you** indicated on **your** application or latest renewal application;

3. If **you** add or change professional or business office locations;

4. If any *Healthcare Professional's* licensing status or privileges are restricted or limited in any way;

5. If **you** intend to add a *Healthcare Professional* to **your** practice;

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6. If any Insured enters, leaves, or is discharged from a diversion or rehabilitation program;

7. If any Insured undergoes treatment or is advised by a physician, peer review committee, hospital credentialing committee, or licensing agency to undergo treatment for psychiatric illness or for alcohol, drug, or other substance abuse; or

8. If any Insured is being investigated, formally or informally, by any governmental agency, licensing agency, or health care review board.

d. Policy Changes

Any Policy changes **you** request must be submitted to **us** in writing by the *First Named Insured*. No changes are effective until **we** agree and have issued an Endorsement or new Declarations Page reflecting such changes. Any change is effective at 12:01 AM on the effective date of the Endorsement or Declarations Page.

e. Our Right to Inspect and Audit

You agree to let **us** or **our** representatives inspect **your** operations, books, records, office, and equipment during normal business hours during the *Policy Period* and up to three years after the *Policy Period*. **We** are not required to make inspections. If **we** do, such an inspection does not constitute a guarantee that **your** offices, premises, or operations are safe or that they are in compliance with any applicable laws, rules, or regulations.

f. Assignments and Transfers

You may not assign or transfer any right or interest in this Policy without **our** prior written consent.

g. Your Duties in the Event of a *Claim* or *Probable Claim Event*

If a *Claim* is made against **you**, or a *Probable Claim Event* has occurred, it is **your** duty to:

1. Immediately notify **us** in writing and forward to **us** every demand, notice of intent to sue, *Suit*, or other document **you** or **your** representative receive relating to the *Claim* or *Probable Claim Event*.

2. Promptly provide written details concerning the *Claim* or *Probable Claim Event*, including the date, time, place, parties involved, identity of the injured party or parties, identities of all witnesses, and all other relevant facts that might assist **us**.

   If the *Claim* or *Probable Claim Event* results from a *Locum Tenens*, **you** must provide **us** with the names and dates of substitution for all *Locum Tenens* serving in **your** place during this *Policy Period*, including **your** records that document this information, such as tax and financial records.

3. Cooperate fully with **us** in the investigation, defense, or settlement of the *Claim* or *Suit* or in the investigation of any *Probable Claim Event*. This includes:

   i. In the event of a *Suit*, providing **us** with copies of any summons, complaints, notices, interrogatories, and any other documents;

   ii. Submitting to examinations under oath;

   iii. Promptly producing all relevant patient and other records in **your** care, custody, or control;

   iv. Assisting **us** in securing and providing evidence and attendance of witnesses;

   v. Attending meetings, hearings, depositions, and trials; and

   vi. Providing to **us** all available information regarding *Other Insurance*.

4. Refrain from making any offer or payment, assuming any obligation, or incurring any expense relating to the *Claim* or *Probable Claim Event* without **our** prior written consent.

   However, this provision does not apply to **your** apology, expression of regret, or remorse following diagnosis, treatment, care, or consultation regarding a patient's medical condition.

A report to **us** of a *Claim* or *Probable Claim Event* by or on behalf of one or more Insureds is not a report by or on behalf of any other Insured.
A separate report to **us** is required for coverage under any CyberGuard or MediGuard Endorsment.

Your deductible or retention obligations, if any, do not alter **your** obligation to report *Claims* or *Probable Claim Events* to **us**.

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h. Alteration of Records

You must not:

1. Omit, misrepresent, or conceal facts pertinent to any *Claim* or *Probable Claim Event*; and

2. Alter, or direct others to alter, any patient or business records pertinent to any *Claim* or *Probable Claim Event* (whether changing, clarifying, updating, completing, or destroying), except for bona fide corrections made in accordance with professional standards, such as maintaining the original entry and dating and initialing the correction.

i. Consent to Special Verdict Forms

If *Suit* is brought on a *Claim*, the Insured named in the *Suit* or **we** have the right to submit special verdict forms or other written inquiries to the trier of fact for the purpose of determining the basis for your liability (if any).

j. Allocation of Losses

We have the right to allocate *Damages* between Insureds, whether covered by this Policy or any other Policy issued by **us** or other insurers in **our** group.

k. Recovering from a Third Party

If a *Claim* covered under this Policy involves an amount that **you** may legally recover from some other party, **we** have the right to seek recovery from that other party. Both before and after **we** make payment on any such *Claim*, **you** must do all that is reasonably possible to preserve any such right of recovery. Any such recovery **we** make will be distributed in the following order:

1. To the expenses of making the recovery.

2. To **you**, to the extent that **you** have paid any amount other than **your** deductible or retention obligation.

3. To **us**, to the extent that **we** have paid *Damages* and defense costs.

4. To **you**, to the extent that **you** have paid any deductible or retention obligation under this Policy.

l. Cancellation or Nonrenewal

1. **Cancellation by the *First Named Insured***

   The *First Named Insured* may cancel this Policy, or coverage for any Insured, at any time by sending advance written notice to **us** stating when thereafter such cancellation shall be effective. **We** will return any unearned premium to the *First Named Insured*, less a short rate fee. However, the Policy cancellation will still be effective even if **you** have not yet received any such return premium due **you**.

2. **Cancellation by Us**

   We may cancel this Policy:

   i. Upon 10 days' written notice for nonpayment of premium or deductible or retention amount when due; or

   ii. With notice as required by state law for any other reason.

3. **Nonrenewal or Conditional Renewal**

   Neither the *First Named Insured* nor **we** have any obligation to renew this Policy. Any renewal will be on the policy forms then in effect. If **we** elect not to renew this Policy or coverage of any Insured, or intend to offer renewal with reduced coverage, **we** will provide written notice as required by state law.

Our written notice will be mailed to the *First Named Insured* and shall be deemed as proper notice to all Insureds under this Policy. If **we** cancel, **we** will return any unearned premium to the *First Named Insured* on a pro rata basis.

Your insolvency or bankruptcy does not preclude **us** from asserting **our** rights to effect cancellation or nonrenewal.

m. Our Right to Recover

If **we** pay defense costs or loss (or both) for matters or allegations that are not covered, **we** are entitled to recover such monies from **you**.

n. Binding Arbitration

Any dispute between **you** and **us** relating to this Policy (including any disputes regarding our extra-contractual obligations) will be resolved by binding

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arbitration in accordance with the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association.

Each party will pay its own arbitration expenses and will share the expenses of the arbitrators equally. Unless otherwise agreed, the arbitration will take place in the county where the *First Named Insured*'s primary practice was located as of the *Effective Date*.

o. *Other Insurance*

If **you** have any *Other Insurance*, whether primary, excess, umbrella, or otherwise, that provides defense (whether a duty to defend, reimbursement of costs, or otherwise) or indemnity (or would but for the exhaustion of its limits) to any Insured for any *Claim* covered, in full or in part, by this Policy, the following applies:

1**. Primary Insurance for *Named Insureds***

This Policy is primary except when paragraph 2 below applies. When this Policy is primary, **our** obligations are not affected unless any *Other Insurance* is also primary. In such cases, **we** will share with all *Other Insurance* by the method described in paragraph 3.

2**. Excess Insurance**

You agree that the *Other Insurance* must pay first and that this Policy shall apply only as excess when such *Other Insurance*:

i. Is a professional liability policy or coverage issued to or that covers any *Additional Insured*, including a *Locum Tenens*. This includes a policy or coverage issued to a group of such persons or entities;

ii. Is primary insurance available to **you** covering liability for *Damages* arising out of products or completed operations for which **you** have been added as an *Additional Insured*;

iii. Provides for payment of *Damages* or defense costs (or both) for a *Review Incident*; or

iv. A policy that provides for payment of *Damages* or defense costs (or both).

When this Policy is excess, **we** will have no duty to defend **you** against any *Suit* if any *Other Insurance* has a duty to defend **you** against that *Suit*. If no *Other Insurance* defends, **we** may undertake to do so, but **we** will be entitled to **your** rights against all *Other Insurance*.

This Policy will not contribute with such *Other Insurance* toward payment of such *Damages* or expenses on a pro rata or any other basis, even if it is described as primary, excess, contingent, or any other basis.

When this Policy is excess, **we** will pay only **our** share of the amount of the loss, if any, that exceeds the sum of:

i. The total amount that all such *Other Insurance* would pay for the loss in the absence of this Policy; and

ii. The total of all deductible and retention amounts under all *Other Insurance*.

3. Sharing With *Other Insurance*

When this Policy and any *Other Insurance* provide primary coverage, **we** will contribute by limits. This means each insurer contributes based on the ratio of its limit of liability to the total of all the limits of all insurers.

p. Bankruptcy/Insolvency

The insolvency or bankruptcy of an Insured will not release **us** from **our** obligation to pay *Damages* under the terms of this Policy.

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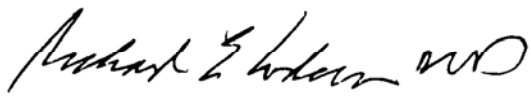
In witness whereof, we have caused this Policy to be signed by our Chairman and Chief Executive Officer at our National Headquarters.



Richard E. Anderson, MD
Chairman and Chief Executive Officer