

# HOSPITAL PROFESSIONAL LIABILITY INSURANCE



**Aspen American Insurance Company**  
**590 MADISON AVENUE, 7TH FLOOR**  
**NEW YORK, NY 10022**  
(A stock insurance company, herein called the Company)

NOTICE: THIS IS KNOWN AS A CLAIMS-MADE POLICY. SUBJECT TO ITS TERMS, CONDITIONS AND EXCLUSIONS, THIS COVERAGE IS LIMITED GENERALLY TO **CLAIMS** ARISING OUT OF A **MEDICAL INCIDENT** SUBSEQUENT TO THE **RETROACTIVE DATE** STATED IN THE DECLARATIONS AND FIRST MADE AGAINST THE **COMPANY** WHILE THE POLICY IS IN FORCE. PLEASE READ THE POLICY CAREFULLY.

In consideration of the payment of the premium and in reliance upon the representations in the **Insured's** completed and **signed** application attached hereto and made a part hereof and any materials submitted therewith for this Insurance, and subject to the Policy wording including the Insuring Agreements, Conditions, Definitions and Exclusions made a part hereof, the **Company** agrees with the **Insured** as follows:

## **I. INSURING AGREEMENT - HOSPITAL PROFESSIONAL LIABILITY**

The **Company** will pay on behalf of the **Insured** all sums which the **Insured** shall be legally obligated to pay as **Damages** because of **Injury** to which this insurance applies caused by a **Medical Incident**, occurring subsequent to the **Retroactive Date**, and for which a **Claim** is first made against the **Insured** during the policy period.

## **II. DEFENSE, SETTLEMENT, INVESTIGATION**

The **Company** shall have the right and duty to defend any suit against the **Insured** seeking **Damages** because of such **Injury** even if any of the allegations of the suit are groundless, false or fraudulent. The **Company** may make such investigation and settlement of any **Claim** or suit as it deems expedient. The **Company** shall not be obligated to pay any **Claim** or judgment or to defend any suit after the applicable limit of the **Company's** liability has been exhausted by payment of judgment or settlements.

## **III. WHEN CLAIM IS TO BE CONSIDERED AS FIRST MADE**

A **Claim** for **Injury** shall be considered as being first made at the earlier of the following times:

- A.** when the **Insured** first gives written notice to the **Company** that a **Claim** has been made; or
- B.** when the **Insured** first gives written notice to the **Company** of specific circumstances involving a particular person which may result in a **Claim**.

Reports of incidents made by the **Insured** to the **Company** as part of engineering or loss control services shall not be considered notice of **Claim**.

All **Claims** arising out of the same **Medical Incident** shall be considered as having been made at the time the first **Claim** is made.

#### IV. PERSONS INSURED

Each of the following is an **Insured** under this insurance to the extent set forth below:

- A. the **Named Insured**;
- B. if the **Named Insured** is designated in the Declarations as a partnership, any partner thereof, but only with respect to that partner's liability as such; and
- C. if the **Named Insured** is designated in the Declarations as other than an individual or partnership, any executive officer, hospital administrator, stockholder or member of the board of directors, trustees or governors of the **Named Insured** while acting within the scope of that person's duties as such.

#### V. LIMITS OF LIABILITY

Regardless of the number of **Insureds** under this insurance or of the number of **Claims** made or suits brought, the **Company's** liability is limited as follows:

- A. The total liability of the **Company** for all **Damages** because of all **Injury** to which this insurance applies shall not exceed the limits of liability stated in the Declarations as "aggregate".
- B. Subject to the above provisions with respect to "aggregate", the total liability of the **Company** for all **Damages** because of all **Injury** arising out of any one **Medical Incident** shall not exceed the limit of liability stated in the Declarations as applicable to "each **Medical Incident**".

#### VI. RETROACTIVE DATE AND RELATED CLAIMS

This Policy only applies to **Medical Incidents** which occur subsequent to the Retroactive Date specified in the Declarations and for which a **Claim** is first made against the **Insured** and reported to the **Company** in writing in accordance with Section **XVII. CONDITIONS**, Paragraph **A.** of the Policy.

All **Claims** arising out of the same **Medical Incident** or interrelated **Medical Incidents** shall be treated as a single **Claim** and considered as having been made at the time the first **Claim** was made. **Claims** arising out of the same **Medical Incident** or interrelated **Medical Incidents** shall be treated as a single **Claim** no matter how many **Insureds** are involved. The inclusion of more than one **Insured** or the making of **Claims** by more than one person or organization shall not operate to increase the **Company's** Limit of Liability. All related **Claims** shall be subject to the Limit of Liability applicable to the **Policy Period** in which the first of such related **Claims** was reported.

## **VII. POLICY TERRITORY**

This insurance applies to **Damages** for **Injury** caused by a **Medical Incident** only within the Commonwealth of Puerto Rico.

## **VIII. CURRENCY & PAYMENT OF PREMIUMS & LOSSES**

The premium and losses under this policy are payable in United States dollars.

## **IX. EXTENDED REPORTING PERIOD OPTION**

Upon termination of this insurance for any reason other than: (i) cancellation for nonpayment of premium; or (ii) expiration and renewal, the **Named Insured** shall have the right by giving written notice to the **Company** within thirty (30) days of such termination, and by paying to the **Company** promptly when due, such premiums as may be required by the **Company's** rules, rates and rating plans then in effect, to have issued an endorsement or endorsements providing an **Extended Reporting Period**. The limit of liability stated in the Declarations of this insurance at the time this insurance is terminated shall be the limits applicable to each **Extended Reporting Period**.

To determine the additional premium applicable to the **Extended Reporting Period** endorsement or endorsements, the **Company** may take into account: (1) the exposures **Insured**; (2) previous types and amounts of insurance; (3) limits of insurance available under this insurance for future payments of **Damages**; and (4) other related factors.

The total additional premium will not exceed 200% of the annual premium for this insurance.

The endorsement or endorsements shall set forth the terms, not inconsistent with this Section, applicable to the **Extended Reporting Period**.

**Extended Reporting Periods** do not extend the **Policy Period** or change the scope of coverage provided. They apply only to **Claims** for **Injury** caused by a **Medical Incident** that occurs before the end of the **Policy Period** (but not before the **Retroactive Date**, if any, shown in the Declarations).

**Claims** for such **Injury** which are first received and recorded during the **Extended Reporting Period** will be deemed to have been made on the last day of the **Policy Period**.

Once in effect, Extended Reporting Periods may not be cancelled.

## **X. OTHER INSURANCE**

The insurance afforded by this Policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the **Insured** has other insurance, which is stated to be applicable to the loss on an excess or contingent basis, the amount of the **Company's** liability under this Policy shall not be reduced by the existence of such other insurance.

When both this insurance and the other insurance apply to the loss on the same basis, whether primary, excess or contingent, the **Company** shall not be liable under this Policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

**Contribution by Equal Shares:** If all of such other valid and collectible insurance provides for contribution by equal shares, the **Company** shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not so paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

**Contribution by Limits:** If any of such other insurance does not provide for contribution by equal shares, the **Company** shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

#### **XI. LEGAL ACTION AGAINST THE COMPANY**

No action shall lie against the **Company** unless, as a condition precedent thereto, the **Insured** shall have fully complied with all the terms of this policy.

#### **XII. FALSE OR FRAUDULENT CLAIMS**

If the **Insured** shall give notice of any **Claim** or potential **Claim** knowing the same to be false or fraudulent, this Insurance shall become void and all rights hereunder shall be forfeited by the **Insured**.

#### **XIII. INSPECTION AND AUDIT**

The **Company** shall be permitted, but not obligated, to inspect the **Insured's** property, operations and/or records at any time. Neither the **Company's** right to make inspections nor the making thereof or any report thereon shall constitute an undertaking on behalf of or for the benefit of the **Insured** to determine or warrant that such property or operations are safe or healthful or are in compliance with any law, rule or regulation.

The **Company** may examine and audit the **Insured's** books and records at any time during the **Policy Period**, and extensions thereof, and within three years after the final termination of this Insurance.

#### **XIV. CHANGES**

The terms of this Policy shall not be waived or changed except by endorsement duly executed by an authorized representative of the **Company**, issued to form a part of this Policy, and agreed upon by the **Insured**.

## **XV. SOLE AGENT**

The **Insured** first named in Item 1 of the Declarations shall act on behalf of all **Insureds** with respect to the giving and receiving notice of cancellation or nonrenewal, accepting any endorsement issued to form a part of this policy and receiving any return premium, if any, and is charged with the responsibility for notifying the **Company** of any changes of members, partners, officers, directors, stockholders or employees or any other change which might affect the insurance hereunder.

## **XVI. CONFORMITY WITH STATUTE OR REGULATION**

If any term of this policy, or any duty arising therefrom, would cause the **Company** to violate any federal, state or local law or regulation, the policy is amended to bring the **Company** into compliance with such statute or regulation.

## **XVII. CONDITIONS**

### **A. INSURED'S DUTIES IN THE EVENT OF CLAIM/POTENTIAL CLAIM**

The **Insured** shall give written notice to the **Company** as soon as practicable of any **Claim** made against the **Insured** or of any specific circumstances involving a particular person likely to result in a **Claim**. The notice shall identify the **Insured** and contain reasonably obtainable information with respect to the time, place and circumstances of the **Injury**, including the names and addresses of the injured and of available witnesses and the extent of the type of **Claim** anticipated. If a **Claim** is made or suit is brought against the **Insured**, the **Insured**, shall immediately forward to the **Company** every demand, notice, summons or other process received by the **Insured** or the **Insured's** representatives.

### **B. ASSISTANCE AND COOPERATION OF INSURED**

The **Insured** and each of its employees shall cooperate with the **Company** and, upon the **Company's** request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the **Insured** because of **Injury** or **Damages** with respect to which insurance is afforded under this policy; and the **Insured**, and any of its members, partners, officers, directors, stockholders and employees that the **Company** deems necessary shall attend hearings and trials assist in securing and giving evidence and obtaining the attendance of witnesses. The **Insured** shall not, except at the **Insured's** own cost, voluntarily make any payment, assume any obligation or incur any expense.

## **XVIII. EXCLUSIONS**

This Policy does not apply to any **Claim** arising directly or indirectly from any:

- A.** bodily injury to any employee of the **Insured** arising out of and in the course of that person's employment by the **Insured**;

- B.** obligation for which the **Insured** or any carrier acting as insurer may be held liable under any workers' compensation, unemployment compensation, or disability benefits law or under any similar law;
- C.** liability of an **Insured**, if an individual, for such **Insured's** personal acts or omissions, involving a **Medical Incident**;
- D.** **Injury** arising out of the ownership, maintenance, operation, use, loading or unloading of any motor vehicle, trailer, watercraft or aircraft;
- E.** bodily injury, property damage, personal injury or advertising injury which arises out of the transmission of communicable disease;
- F.** **Claims** alleging any act of sexual abuse by the **Insured**, or by any other person for whose act the **Insured** is legally responsible, connected to the performance or professional services;
- G.** act of war, including undeclared or civil war, action by a military force, action in hindering or defending against an actual or expected attack, by any government, sovereign, or other authority using military personnel or other agents, insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these;
- H.** act of terrorism, including any action taken in hindering or defending against an actual or expected **Medical Incident**, the use, release, or escape of nuclear materials, or directly or indirectly results in nuclear reaction or radiation or radioactive contamination.
- I.** bodily injury resulting from the hazardous properties of nuclear material, if: (i) the nuclear material is at any nuclear facility owned by, or operated by or on behalf of the **Insured**, or has been discharged or dispersed therefrom; (ii) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of the **Insured**; or (iii) the bodily injury arises out of the furnishing by the **Insured** of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility.

## **XIX. DEFINITIONS**

When used in reference to this insurance (including endorsement forming a part of a policy):

**Claim** means any written demand for **Damages** received by the **Insured** resulting from a **Medical Incident**, including but not limited to the filing of a lawsuit against the **Insured**.

**Company** means Aspen American Insurance Company.

**Damages** mean a compensatory settlement, award or judgment which the **Insured** is obligated to pay.

**Damages** include pre-judgment interest. **Damages** do not include:

- (a) punitive or exemplary **Damages**, fines or penalties, or any **Damages** which are a multiple of compensatory **Damages**;
- (b) the return or restitution of fees, compensation, profits, charges and/or expenses paid to the **Insured** for services rendered; or
- (c) judgments or awards deemed uninsurable by law.

**Extended Reporting Period** means the time after the end of the **Policy Period** for reporting **Claims** arising out of a **Medical Incident** occurring subsequent to the **Retroactive Date** and prior to the end of the **Policy Period** and otherwise covered by this insurance.

**Injury** means bodily injury, sickness, disease, mental anguish, mental injury or emotional distress suffered by a person, including death at any time resulting therefrom.

**Medical Incident** means any act or omission:

- (a) in the furnishing of professional health care services including the furnishing of food, beverages, medications or appliances in connection with such services and the postmortem handling of human bodies; or
- (b) arising out of service by any persons as members of a formal accreditation, standards review or similar professional board or committee of the **Named Insured** or as a person charged with executing the directives of such board or committee.

Any such act or omission, together with all related acts or omissions in the furnishing of such services to any one person shall be considered one **Medical Incident**.

**Named Insured** means the **Named Insured** set forth in the Declarations for this policy and any additional **Insured** identified in the Declarations or added by endorsement to this Policy.

**Partnership** means:

- (1) A Professional Service Corporation (PSC)
- (2) A Limited Liability Partnership (LLP)
- (3) A Domestic and Foreign Corporation (Corp. or Inc.)
- (4) A Limited Liability Corporation (LLC)

**Policy Period** means the period from the inception date and hour of this Policy to the earlier of the Policy expiration date and hour or the end of the Extended Reporting Period, if purchased, set forth in the Declarations or any other termination date effected in accordance with the terms of this Policy.