

IRONSHORE SPECIALTY INSURANCE COMPANY

80 HOPMEADOW STREET, SIMSBURY CT 06070

PODIATRIC PHYSICIAN PROFESSIONAL LIABILITY POLICY CLAIMS MADE

NOTICE: THIS IS A CLAIMS MADE POLICY. COVERAGE IS LIMITED TO LIABILITY FOR CLAIMS FIRST MADE AGAINST YOU AND REPORTED TO US WHILE THE COVERAGE IS IN FORCE. PLEASE REVIEW THE COVERAGE PART CAREFULLY AND DISCUSS THIS COVERAGE WITH YOUR INSURANCE AGENT OR BROKER.

Various provisions in this Policy restrict coverage. Read the entire Policy carefully to determine rights, duties and what is and is not covered.

Throughout this Policy the words **you** and **your** refer to the Named Insured(s) shown in the Declarations and any other person(s) or organization(s) qualifying as a Named Insured under this Policy. The words **we**, **us** and **our** refer to the company providing this insurance.

The word Insured means any person or organization qualifying under SECTION IV. WHO IS AN INSURED. Other words and phrases that appear in boldface have special meaning. Refer to SECTION IX. DEFINITIONS.

In consideration of the premium paid, and in reliance upon statements in **your** application, it is agreed as follows:

I COVERAGES

A. Professional Liability

We shall pay those amounts **you** are legally obligated to pay to compensate others for damages resulting from an Insured's **wrongful act** or that of another for whom **you** are legally responsible. The **wrongful act** must arise solely out of the performance of **your** professional services as a **podiatric physician**. The **wrongful act** must take place within the Coverage Territory and on or after the **retroactive date** but before the end of the **policy period**. A **claim** for such **wrongful act** must be first made against **you** and reported to **us** during the **policy period** or any applicable extended reporting period.

B. Premises Liability

We shall pay those amounts **you** are legally obligated to pay to compensate patients for damages sustained from **bodily injury** or **property damage** arising out of an **occurrence** on premises **you** principally use in **your** practice as a **podiatric physician**. The **occurrence** must take place within the Coverage Territory and on or after the **retroactive date** but before the end of the **policy period**. A **claim** for such **bodily injury** or **property damage** must first be made against **you** and reported to **us** during the **policy period** or any applicable extended reporting period.

C. Personal Injury Liability

We shall pay those amounts **you** are legally obligated to pay to compensate others for damages resulting from an Insured's **personal injury** offense or that of another for whom **you** are legally responsible to someone other than the Insured's patient. The **personal injury** offense must arise solely out of the performance of **your** professional services as a **podiatric physician**. The **personal injury** offense must take place within the Coverage Territory and on or after the **retroactive date** but before the end of the **policy period**. A **claim** for such **personal injury** offense must be first made against **you** and reported to **us** during the **policy period** or any applicable extended reporting period.

II DEFENSE COSTS, CHARGES, AND EXPENSES

The following payments are in addition to the Limits of Insurance. These payments end after the applicable limit of insurance has been exhausted in paying judgments, settlements, or awards.

A. **We** have the right and duty to defend at **our** expense any **suit** brought against an Insured for covered **claims**, even if the **suit** is groundless or fraudulent. **Our** duty to defend any **suit** ends after the applicable limit of insurance has been exhausted by payment of judgments, awards, settlements and interest accruing thereon prior to entry of a judgment, issuance of an award or settlements.

We have the right to investigate any **claim** or **suit** and, with **your** written consent, settle any **claim** or **suit** if we believe that is proper. If **you** refuse to consent to a settlement of any **claim** acceptable to a claimant and recommended by **us**, and **you** elect to contest or continue any legal proceedings, then **our** liability in connection with such **claim** shall not exceed the amount for which the **claim** could have been settled, including defense costs incurred with **our** consent up to the date of such refusal, plus 50% of the amount of any **loss** in excess of such amount up to the applicable Limit of Liability. The remaining 50% of such **loss** shall be carried by **you** at **your** own risk and be uninsured.

B. We shall pay, with respect to any **claim** or **suit** we defend:

1. All expenses we incur.
2. All costs taxed against **you** in the **suit**.
3. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable Limit of Insurance.
4. All reasonable expenses incurred by **you** at our request to assist **us** in the investigation or defense of the **claim** or **suit**. We shall also pay up to \$750 per day for loss of earnings for each **suit**, if **you** are away from **your** practice as a **podiatric physician** at our request to help **us** defend a **suit**.
5. Premiums for appeal bonds, or bonds to release property used to secure a legal obligation, if required in a **suit** we defend. We shall only pay, however, for bonds valued up to our applicable Limit of Liability. We have no obligation to appeal a **suit** we defend or to obtain these bonds.

These payments shall not reduce the Limits of Insurance.

III EXCLUSIONS

This Policy shall not apply to **claims**:

- A. Arising from an Insured's dishonest, fraudulent, criminal or malicious act, error or omission;
- B. Arising from **your** ownership or operation of a hospital, clinic or other facility or institution which provides overnight bed and board, or a laboratory;
- C. Arising from disputes about **your** fees, including collecting fees from third parties;
- D. Arising from a **wrongful act** as a manager, administrator or as director/officer or committee members of a **utilization review** panel. This exclusion does not apply to **your wrongful acts** in **your** capacity as a member of a formal accreditation or podiatric review board,

professional society or licensing boards;

- E. Brought by any other person or organization covered under this Policy;
- F. Arising from **discrimination** on any basis whatsoever;
- G. Arising from a **wrongful act, occurrence, or personal injury** offense in which **you** expected or intended injury or damage, regardless of whether **you** intended the specific injury or damage sustained;
- H. Arising from **bodily injury or property damage** in any way involving an **automobile, watercraft or aircraft**;
- I. Arising from injury or damage to:
 1. **Your** employee or an independent contractor working for **you**; or
 2. The spouse or relative of such employee or independent contractor, as a consequence of injury or damage to the employee or independent contractor.

This exclusion applies:

3. Whether **you** are liable as an employer or in any other capacity; and
 4. To any obligation to share damages with or repay someone else who must pay damages because of the injury or damage.
- J. Arising out of any obligation under a workers' compensation, disability benefits, unemployment compensation law, or any similar law;
 - K. Arising from **property damage** to:
 1. Property **you** own, rent, occupy or use;
 2. Property in **your** care, custody or control; or
 3. Premises **you** have sold, given away or abandoned;
 - L. Arising from any business relationship outside of **your** providing of podiatric services to any past or present patient or client;
 - M. Arising from liability **you** assume under any contract or agreement. This exclusion does not apply to liability **you** would have in the absence of the contract or agreement;
 - N. For any **wrongful act(s)** committed with **your** knowledge that it was a **wrongful act**;
 - O. Arising from any **wrongful act, occurrence, or personal injury** offense of which, prior to the effective date of the first **Podiatric Physicians Professional Liability Policy** we issued to **you** and which was continuously maintained in effect until the effective date of this Policy, **you** were aware of and could have reasonably believed would result in a **claim**;
 - P. Arising from any **wrongful act** for any services for which **you** did not have a license required by law;
 - Q. Arising from any **wrongful act** while an Insured was

under the influence of a drug or intoxicant;

R. Arising from any **wrongful act** in violation of applicable law;

S. Arising from:

1. The actual, alleged or threatened, discharge, dispersal, seepage, migration, release or escape of **pollutants**; or
2. Any direction or request, to test for, monitor, cleanup, remove, contain, treat, detoxify, or neutralize **pollutants** or in any way respond to or assess the effects of **pollutants**;

T. Arising from fines, penalties, punitive, exemplary or multiplied damages;

U. Covered under one coverage in this Policy, which may also be covered under any other coverage under this Policy. Coverage is limited to one of the above three coverage parts for any one **wrongful act, occurrence** or **personal injury** offense;

V. The administration of anesthesia other than local;

W. Arising from the use of x-ray, radium or any other radioactive substances for treatment with the exception of x-ray for diagnostic purposes;

X. 1. For **bodily injury** or **property damage** for which any covered person under this Policy is covered under a nuclear energy liability policy issued by a group such as one of the following:

- a. The Nuclear Energy Liability Underwriters; or
- b. The Mutual Atomic Energy Liability Underwriters; or
- c. The Nuclear Insurance Association of Canada. Nor will we cover **bodily injury** or **property damage** that would have been covered by a policy issued by one of those groups if its limits of insurance had not been exhausted.

2. For medical expenses that result from the **hazardous properties** of **nuclear material** related to the operation of a **nuclear facility** by anyone. Nor will we cover **bodily injury** or **property damage** that results from the **hazardous properties** of **nuclear material** in any of these four situations:

- a. Any covered person is required by law to maintain financial protection for nuclear events, or is entitled, or would have been entitled had this Policy not been issued, to indemnity for nuclear events from the United States government.
- b. The **nuclear material** is located at, or at any time discharges from, any **nuclear facility** that is owned or operated by any protected person. Nor will we cover such **bodily injury** or **property damage** if others operate the **nuclear facility** owned by any

covered person.

c. The **nuclear material** is contained in **spent fuel** or waste that any protected person, or someone acting for them, has at any time possessed, transported or disposed of.

d. The **bodily injury** or **property damage** results from services or materials any covered person furnishes in connection with the planning, construction, maintenance, operation or use of a **nuclear facility**. If the **nuclear facility** is in the United States of America, its territories or possessions or Canada, this paragraph applies only to **property damage** to the facility and any property at its site.

Property damage includes all forms of radioactive contamination of property.

IV WHO IS AN INSURED

The following are Insureds:

1. **You**.
2. An individual and the individual's spouse are Insureds, but only with respect to the conduct of **your** professional services named in the Declarations of which he or she is the sole proprietor.
3. A partnership or joint venture is an Insured. The partnership's partners or joint venture's members and their spouses are also Insureds, but only with respect to the conduct of a partnership or joint venture of **your** professional services named in the Declarations. 4. If **you** are shown in the Declarations as a corporation or organization other than a partnership or joint venture **you** are an Insured. **Your** executive officers and directors are Insureds, but only with respect to their duties as **your** officers or directors. **Your** stockholders are also Insureds, but only with respect to their liability as stockholders.
5. **Your** employees, other than **your** executive officers and directors, are Insureds, but only for acts within the scope of their employment by **you** or while performing duties related to the conduct of **your** professional services as a **podiatric physician**.

V LIMITS OF INSURANCE

A. The limits shown in the Declarations to this Policy and the information contained in this section fix the most **we** will pay regardless of the number of:

1. Persons or organizations covered;
2. Claimants, **claims** made or **suits** brought; or
3. Coverages under this Policy which may be applicable.

B. Each **Wrongful Act, Occurrence** or **Personal Injury** Offense Limit

1. The each **wrongful act, occurrence or personal injury** offense limit is the most **we** shall pay for all **claims** first made and reported to **us** in writing while this Policy is in effect that result from a single **wrongful act, occurrence or personal injury** offense.

2. The each **wrongful act, occurrence or personal injury** offense limit shall apply separately to:

- a. Each individual specifically designated as Named Insured on the Declarations; and
- b. The partnership, association, corporation, or other entity specifically designated as Named Insured, including any of the Named Insured's personnel, but only while acting in his/her occupational capacity.

This limit applies regardless of the number of persons or organizations who are covered under this Policy.

C. Aggregate Limit

The Aggregate Limit of Insurance is the most **we** shall pay for all injury or damage under this Policy. The Aggregate Limit of Insurance applies to each annual **policy period**. This limit shall apply:

- 1. Separately to each individual specifically designated as Named Insured on the Declarations; and
- 2. As a shared liability for the partnership, association, corporation, or other entity specifically designated as Named Insured, including any of the Named Insured's personnel, but only while acting in his/her occupational capacity.

This limit applies regardless of the number of persons or organizations who are covered under this Policy.

D. A **claim** may first be made after the **policy period**, under the **wrongful acts, occurrences or personal injury** offenses coverage in Section I. The **claim(s)** will be subject to the limit applying to the **policy period** in which the first **wrongful act, occurrence or personal injury** offense was reported.

E. All **claims** arising from continuous, repeated or related **wrongful acts, occurrences or personal injury** offenses shall be treated as one **claim**. The limit in effect when the first **claim** is made and reported to **us** shall apply.

VI DEDUCTIBLE

You will be responsible for the deductible amount shown in the Declarations. The deductible applies to each **wrongful act, occurrence or personal injury** and **you** may not insure it. All **claims** arising from a **wrongful act, occurrence or personal injury** offense or continuous, repeated or related **wrongful acts, occurrences or personal injury** offenses, shall be subject to one deductible. **We** may pay all or a part

of the deductible to defend or settle a **claim**. **You** agree to repay **us** promptly after **we** notify **you** of the payment.

VII ADMINISTRATIVE HEARING PROVISION

A. **We** have the right and duty to defend the Insured and pay **administrative expenses** arising out of an **administrative hearing**, regardless if the basis for that **administrative hearing** is groundless, false, or fraudulent.

B. The Limit of Insurance for each **administrative hearing** shall be the amount shown in the Declarations. Coverage for an **administrative hearing** shall cease when this limit is exhausted. The maximum amount of **administrative expenses for administrative hearings** shall be the aggregate **administrative hearing** limit as shown in the Declarations. Coverage shall cease when the aggregate **administrative hearing** limit has been exhausted by payments for **administrative expenses**. All **administrative hearings** arising from the same series of continuous, related, or repeated allegations shall be considered arising out of one allegation.

C. **We** shall not pay for **administrative expenses** arising out of:

- 1. Any defense of **criminal prosecution**;
- 2. Any circumstances or events of which **you** were aware, between the **retroactive date** and the effective date, which **you** could have reasonably believed would result in an **administrative hearing**;
- 3. Any legal matter other than an **administrative hearing**;
- 4. Any application for initial placement on a medical staff;
- 5. Any costs **you** incur, including but not limited to loss of earnings, with regard to an **administrative hearing** other than any cost **we** ask **you** to incur.
- 6. Any defense of fraud or willful non-compliance allegations with regard to Medicare/Medicaid or any other insurance reimbursement regulations or procedures unless, in final adjudication, such allegations are found to be false or unfounded.
- 7. Any legal action including, but not limited to, an **administrative hearing** commenced by **you**;
- 8. Fines, penalties, punitive, exemplary, or multiplied damages; or
- 9. Any **administrative hearing** arising out an Insured's capacity as a manager, administrator, or as a director/officer or committee member of a **utilization review** panel. This exclusion shall not apply to **your** capacity as a member of a formal accreditation or podiatric review board, professional society or licensing board.

