



April 6, 2018

Shannyn I. Fowl, N.D.  
5575 Lake Park Way, Ste. 114  
La Mesa, CA 91942

Dear Dr. Fowl:

This is to confirm receipt of your membership renewal application and premium payment for malpractice insurance, and to confirm that your coverage has been renewed and is in force as of 2018-05-09. As a participant in our Elite program, you'll continue to enjoy the low rates and unique protection afforded to members using our Arbitration Agreements and Informed Consent in their practice. Please read the following notices carefully.

**Notice:** You must maintain signed copies of **Arbitration Agreements** for every patient treated during your Policy Period in your office files. Use only the approved NCC red-lettered forms, and have patients initial the forms to make them retroactive where necessary to cover any treatments rendered before your Policy began. You also must have each patient sign, prior to treatment an Informed Consent to Treat form. If you use another consent to treat form, you must submit to us a copy of the form for approval. See Exclusion #4 of Section V of your Endorsement.

**Notice:** If you are practicing with someone who does not have their own malpractice insurance coverage, you will not be covered if a claim is made that involves that other practitioner. Please be sure that everyone with whom you practice or share office space maintains their own malpractice insurance coverage, as in the event of a claim, you will be required to verify their coverage.

Enclosed, please find your malpractice insurance policy, the NCC Arbitration and Informed Consent form, along with any applicable endorsements. If there is anything we can do to assist you with your coverage or other issues you face in your practice, please don't hesitate to call:

**NATIONAL CHIROPRACTIC COUNCIL**  
**800-622-6869**

Thank you for your continuing membership in the National Chiropractic Council. We look forward to meeting your professional liability coverage needs for many years to come.

Sincerely,

A handwritten signature in blue ink that reads "Marilyn Allen". The signature is written in a cursive, flowing style.

Marilyn Allen  
Director of Marketing

PATIENT NAME:

## ARBITRATION AGREEMENT

**Article 1: Agreement to Arbitrate:** It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by state and federal law, and not by a lawsuit or resort to court process, except as state and federal law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration. Further, the parties will not have the right to participate as a member of any class of claimants, and there shall be no authority for any dispute to be decided on a class action basis. An arbitration can only decide a dispute between the parties and may not consolidate or join the claims of other persons who have similar claims.

**Article 2: All Claims Must be Arbitrated:** It is also understood that any dispute that does not relate to medical malpractice, including disputes as to whether or not a dispute is subject to arbitration, as to whether this agreement is unconscionable, and any procedural disputes, will also be determined by submission to binding arbitration. It is the intention of the parties that this agreement bind all parties as to all claims, including claims arising out of or relating to treatment or services provided by the health care provider, including any heirs or past, present or future spouse(s) of the patient in relation to all claims, including loss of consortium. This agreement is also intended to bind any children of the patient whether born or unborn at the time of the occurrence giving rise to any claim. This agreement is intended to bind the patient and the health care provider and/or other licensed health care providers, preceptors, or interns who now or in the future treat the patient while employed by, working or associated with or serving as a back-up for the health care provider, including those working at the health care provider's clinic or office or any other clinic or office whether signatories to this form or not.

All claims for monetary damages exceeding the jurisdictional limit of the small claims court against the health care provider, and/or the health care provider's associates, association, corporation, partnership, employees, agents and estate, must be arbitrated including, without limitation, claims for loss of consortium, wrongful death, emotional distress, injunctive relief, or punitive damages. This agreement is intended to create an open book account unless and until revoked.

**Article 3: Procedures and Applicable Law:** A demand for arbitration must be communicated in writing to all parties. Each party shall select an arbitrator (party arbitrator) within thirty days, and a third arbitrator (neutral arbitrator) shall be selected by the arbitrators appointed by the parties within thirty days thereafter. The neutral arbitrator shall then be the sole arbitrator and shall decide the arbitration. Each party to the arbitration shall pay such party's pro rata share of the expenses and fees of the neutral arbitrator, together with other expenses of the arbitration incurred or approved by the neutral arbitrator, not including counsel fees, witness fees, or other expenses incurred by a party for such party's own benefit. Either party shall have the absolute right to bifurcate the issues of liability and damage upon written request to the neutral arbitrator.

The parties consent to the intervention and joinder in this arbitration of any person or entity that would otherwise be a proper additional party in a court action, and upon such intervention and joinder, any existing court action against such additional person or entity shall be stayed pending arbitration. The parties agree that provisions of state and federal law, where applicable, establishing the right to introduce evidence of any amount payable as a benefit to the patient to the maximum extent permitted by law, limiting the right to recover non-economic losses, and the right to have a judgment for future damages conformed to periodic payments, shall apply to disputes within this Arbitration Agreement. The parties further agree that the Commercial Arbitration Rules of the American Arbitration Association shall govern any arbitration conducted pursuant to this Arbitration Agreement.

**Article 4: General Provision:** All claims based upon the same incident, transaction, or related circumstances shall be arbitrated in one proceeding. A claim shall be waived and forever barred if (1) on the date notice thereof is received, the claim, if asserted in a civil action, would be barred by the applicable legal statute of limitations, or (2) the claimant fails to pursue the arbitration claim in accordance with the procedures prescribed herein with reasonable diligence.

**Article 5: Revocation:** This agreement may be revoked by written notice delivered to the health care provider within 30 days of signature and, if not revoked, will govern all professional services received by the patient and all other disputes between the parties.

**Article 6: Retroactive Effect:** If patient intends this agreement to cover services rendered before the date it is signed (for example, emergency treatment), patient should initial here. \_\_\_\_\_. Effective as of the date of first professional services.

If any provision of this Arbitration Agreement is held invalid or unenforceable, the remaining provisions shall remain in full force and shall not be affected by the invalidity of any other provision. I understand that I have the right to receive a copy of this Arbitration Agreement. By my signature below, I acknowledge that I have received a copy.

**NOTICE: BY SIGNING THIS CONTRACT YOU ARE AGREEING TO HAVE ANY ISSUE OF MEDICAL MALPRACTICE DECIDED BY NEUTRAL ARBITRATION AND YOU ARE GIVING UP YOUR RIGHT TO A JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS CONTRACT.**

Patient Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Parent or Guardian: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ALSO SIGN THE INFORMED CONSENT ON REVERSE SIDE**

# Informed Consent to Care

You are the decision maker for your health care. Part of our role is to provide you with information to assist you in making informed choices. This process is often referred to as "informed consent" and involves your understanding and agreement regarding the care we recommend, the benefits and risks associated with the care, alternatives, and the potential effect on your health if you choose not to receive the care.

We may conduct some diagnostic or examination procedures, if indicated. Any examinations or tests conducted will be carefully performed, but may be uncomfortable.

Chiropractic care centrally involves what is known as a chiropractic adjustment. There may be additional supportive procedures or recommendations as well. When providing an adjustment, we use our hands or an instrument to reposition anatomical structures, such as vertebrae. Potential benefits of an adjustment include restoring normal joint motion, reducing swelling and inflammation in a joint, reducing pain in the joint, and improving neurological functioning and overall well-being.

It is important that you understand, as with all health care approaches, results are not guaranteed, and there is no promise to cure. As with all types of health care interventions, there are some risks to care, including, but not limited to: muscle spasms, aggravating and/or temporary increase in symptoms, lack of improvement of symptoms, burns and/or scarring from electrical stimulation and from hot or cold therapies, including, but not limited to, hot packs and ice, fractures (broken bones), disc injuries, strokes, dislocations, strains, and sprains. With respect to strokes, there is a rare but serious condition known as an arterial dissection that involves an abnormal change in the wall of an artery that may cause the development of a thrombus (clot) with the potential to lead to a stroke. This occurs in 3-4 of every 100,000 people, whether they are receiving health care or not. Patients who experience this condition often, but not always, present to their medical doctor or chiropractor with neck pain and headache. Unfortunately, a percentage of these patients will experience a stroke. As chiropractic can involve manually and/or mechanically adjusting the cervical spine, it has been reported that chiropractic care may be a risk for developing this type of stroke. The association with stroke is exceedingly rare and is estimated to be related in one in one million to one in two million cervical adjustments.

It is also important that you understand there are treatment options available for your condition other than chiropractic procedures. Likely, you have tried many of these approaches already. These options may include, but are not limited to: self-administered care, over-the-counter pain relievers, physical measures and rest, medical care with prescription drugs, physical therapy, bracing, injections, and surgery. Lastly, you have the right to a second opinion and to secure other opinions about your circumstances and health care as you see fit.

*I have read, or have had read to me, the above consent. I appreciate that it is not possible to consider every possible complication to care. I have also had an opportunity to ask questions about its content, and by signing below, I agree with the current or future recommendation to receive chiropractic care as is deemed appropriate for my circumstance. I intend this consent to cover the entire course of care from all providers in this office for my present condition and for any future condition(s) for which I seek chiropractic care from this office.*

Patient Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Parent or Guardian: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Witness Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**ALSO SIGN THE ARBITRATION AGREEMENT ON REVERSE SIDE**

ALLIED PROFESSIONALS INSURANCE COMPANY,  
A Risk Retention Group, Inc.



**Declarations to Claims Made Professional Liability Policy**

Named Insured/Certificate Holder: Shannyn I. Fowl, N.D.  
Member Policy No: APIC-290257  
Master Policy: APIC-NCC-1001 - Elite Issued In: CA  
Master Policy Held By: American Naturopathic Council  
Professional Services: Naturopathic  
Claims Reporting Basis: Claims Made  
Endorsement(s): N2002 (Naturopathic)  
Premises Liability: None Deductible: None  
Exclusions: As stated in Section V of Endorsement to Policy  
Territory: United States — Subject to proper licensing in states where services are rendered  
Professional Liability Policy Limits: \$1,000,000 Each Claim / \$3,000,000 Aggregate  
Covered Proceedings Limits: \$30,000/\$30,000  
Total Annual Cost Basis: \$1,310.00 (Premium - \$ 986.00; Policy Fee - \$ 174.00; Membership Fee - \$ 150.00; Install Chrg - \$ .00)  
Premium Based On: Annual Reporting Period Payment Plan: Annually  
Lapse Dates: From: To:  
Retroactive Date: 2011-05-09  
Policy Period: From: 2018-05-09 To: 2019-05-09  
Please direct all inquiries to your broker: Phone: (800) 860-8330

**(All dates are at 12:01 a.m. at the address of Named Insured. Unless renewed, coverage ends on the Expiration Date.)**

**General:** This Declarations Page identifies the person(s) named herein as a named insured under the terms and conditions of a Policy issued to the members of the American Naturopathic Council. The terms and conditions of the Policy apply to all members who hold a Certificate of Insurance. The terms and conditions of this Certificate apply only to the person(s) named herein and the insurer. The Retroactive Date listed above applies only to those attributes of coverage in place continuously since the inception of the Named Insured's Policy. When changes to coverage are requested, including but not limited to changes in Limits, switching from Preferred to Elite, adding Professional Services, etc., such changes are effective retroactively only to the date the change was approved by the Company.

**Coverage:** Coverage is afforded to person(s) named herein as Named Insureds according to the terms and conditions of the Policy to which this Certificate refers. No other rights or conditions, except as specifically stated herein, are granted or inferred. When your Claims Reporting Basis is "Claims Made", the Policy affords defense and damage coverage only for claims made against the Named Insured 1) arising from the performance of Professional Services rendered subsequent to the Retroactive Date, and 2) made against the Named Insured and reported to the Company during the Policy Period. Please review the Policy carefully and discuss any questions regarding coverage with your insurance broker (if applicable) or your program manager at (800) 860-8330.

**Extended Coverage:** If your Claims Reporting Basis is "Claims Made" and the Policy is terminated either by you or the Company, you may apply for Extended Coverage so that you can submit claims after your Policy Period ends for incidents that occurred during your Policy Period. An application for Extended Coverage must be received within thirty (30) days of termination of your Policy, unless otherwise modified by any applicable State Mandatory Endorsement attached hereto.

**Notice:** Report in writing within 48 hours any & all claims against you and any & all incidents that you believe may result in a claim against you, even if groundless, to American Naturopathic Council, 1100 W. Town and Country Road, Suite 1400, Orange, CA 92868.

**Notice:** This Policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group.

Countersigned by: \_\_\_\_\_  
  
Authorized Representative

## Naturopathic Professional Coverage Endorsement

In consideration of the payment of premium, in reliance upon the statements made in the application for insurance provided under the Policy, including this endorsement to the Policy, and subject to all of the terms of the Policy including this endorsement, The Company agrees with the Named Insured as follows:

### I. INSURING AGREEMENTS

**A. Professional Liability.** The Company shall pay on behalf of the Named Insured all sums which the Named Insured shall become legally obligated to pay as Damages because of any claim reported against the Named Insured for Bodily Injury arising out of the rendering of or failure to render, during the Policy Period as set forth in the Declarations (the "Policy Period"), Professional Services in the practice of the Named Insured as stated in the Declarations of this Policy 1) by the Named Insured or 2) by any person for whose acts or omissions the Named Insured is legally responsible (as described in Article III hereof), and 3) only if such claim is first made and is reported to the Company during the Policy Period.

**B. Defend Claim.** The Company shall have the right and duty to defend each covered claim reported against a Named Insured during the Policy Period, even if any of the allegations of the claim or suit are groundless, false, or fraudulent (except as excluded by this Policy) and the Company may make such investigation and make settlement of any claim reported as it deems expedient. The Company's costs of providing such a defense shall be included in the computation of the Named Insured's limits of liability.

**C. Defense Limitations.** The Company shall not be liable for the cost of professional services, including, but not limited to, legal and accounting services by any attorney, accountant, or any other professional selected by the Named Insured without the written consent of the Company. The Company will not pay for any costs or legal fees incurred in defense of any criminal investigation or prosecution.

**D. Supplementary Payments.** The Company will pay, within the applicable limit of liability:

**1. Expenses.** All costs assessed against the Named Insured in any suit defended by the Company and, with respect to any judgment, all interest on the entire amount of such judgment that accrues after entry of the judgment and before the Company has paid or tendered or deposited in court that part of the judgment that does not exceed the limit of the Company's liability thereof.

**2. Bonds.** Premiums on appeal bonds required in any suit to which this Policy applies, and to furnish such appeal bonds necessary to appeal such suit up to the Company's limit of liability, but without any obligation to apply for or furnish a bond in excess of such limit of liability; and premiums on bonds to release attachments in any such suit for an amount not in excess of the applicable limit of liability of the Company.

**3. Loss of Earnings.** The Company will pay up to \$500 per day for loss of earnings, up to a maximum of \$10,000 per suit, if the Named Insured is away from their practice at the Company's request to help defend a suit.

**4. Covered Proceedings – Defense Only.** Upon receipt of written notification that a Covered Proceeding has been initiated against the Named Insured, the Company will appoint an attorney and/or accountant of the Company's choice, and pay defense costs incurred through retained counsel and/or accountant during the defense of the Covered Proceeding, up to a maximum of \$30,000. The Company shall only have the responsibility to pay for defense costs in connection with a Covered Proceeding commenced and reported during the Policy Period. The maximum amount the Company will pay pursuant to this Article I, Section D, Paragraph 4, for a Covered Proceeding is \$30,000 per occurrence, subject to a \$30,000 total limit in any one Policy Period, regardless of the number of Named Insureds, the number of Covered Proceedings, or the number of claims made during such Policy Period. Covered Proceedings are: 1) investigations regarding the in-force license of the Named Insured conducted by that regulatory entity responsible for the Named Insured's licensure and professional conduct in the profession listed in the Declarations; 2) investigations/audits alleging errors or omissions by the Named Insured in billing statements for Professional Services rendered by the Named Insured, by a health plan which compensates the Named Insured for Professional Services, whether operated privately or by a government agency; 3) investigations of compliance by the Named Insured with the Health Insurance Portability and Accountability Act (HIPAA) by a government agency; and 4) any civil suit or civil proceeding brought against the Named Insured alleging actual or threatened sexual abuse or sexual molestation of a patient by the Named Insured while providing Professional Services.

**5. Medical Expense Coverage.** The Company will pay all medical expenses incurred, except for those incurred for services rendered by the Named Insured, due to an accident at the office, clinic, or other such location where the Named Insured is providing Professional Services, regardless of fault, for which the Named Insured becomes liable, other than as a consequence of rendering or failing to render Professional Services, up to a maximum of \$5,000 per accident, and per Policy Period, irrespective of how many such claims are asserted in a Policy Period.

### II. PERIOD OF COVERAGE

The Company shall not have any obligations under the above Insuring Agreements if a claim reported against a Named Insured during the Policy Period is based on an incident prior to the Policy Period stated in the Declarations of this Policy or in the Declarations of an earlier dated policy issued by the Company of which this policy is a renewal or replacement. This insurance applies only to Professional Services rendered or which should have been rendered during the Policy Period stated in the Declarations or in the Declarations of an earlier dated policy issued by the Company of which this policy is a renewal or replacement and then only if a claim is first reported during the Policy Period.

### III. PERSONS INSURED

**A.** Except as permitted by Article III, Section B, Paragraph 4, this Policy does **not** afford coverage for any act or omission of any Other Health Provider, unless such person is specifically listed in the Declarations of this Policy as a Named Insured.

**B.** This Policy does afford coverage within the applicable limits to the following persons for whose acts or omissions the Named Insured is legally responsible, but only to the extent of the Named Insured's liability for the acts of these persons in connection with the rendering or failing to render Professional Services, subject to all the same terms, conditions, and exclusions that apply to the Named Insured:

**1.** The Named Insured;  
**2.** The Named Insured's PC and any other officer or director thereof with respect to covered incidents by the Named Insured or such employed health care providers listed in the Declarations, provided that a) coverage for the Named Insured's PC is indicated in the Declarations, and b) all healthcare providers employed by the Named Insured's PC, as well as all shareholders, officers and directors of the Named Insured's PC are insured by the Company;

**3.** Except for Other Health Providers, any employee of the Named Insured (or the Named Insured's PC if the Named Insured's PC is indicated in the Declarations), while acting within the scope of his or her duties as such; and

**4.** Any healthcare provider while employed by the Named Insured (or the Named Insured's PC if the Named Insured's PC is indicated in the Declarations), and temporarily serving as a relief or substitute for the Named Insured for a period not to exceed fourteen (14) consecutive days, provided that such health care provider has made application to The Company for insurance and The Company has issued its acceptance of such application ("Relief Practitioner").

**C.** This Policy does afford coverage within the applicable limits and subject to all the same terms, conditions, and exclusions that apply to the Named Insured to any additional insured listed in the Declarations for the period therein indicated, but in no event later than the termination of the Named Insured's Policy, but only for a covered incident by the Named Insured at the office(s) or clinic(s) of, owned by or shared by the additional insured.

### IV. LIMITS OF LIABILITY

**A.** The limit of liability stated in the Declarations as applicable to "Each Claim" is the limit of the Company's liability for loss resulting from any one claim or suit or all claims or suits because of injury or damages (and the cost of defending against same) to any one person or entity for all acts arising out of the rendering of, or failure to render, Professional Services upon which the claims or suits are based. Two or more claims arising out of a single act, error, or omission or a series of related acts, errors, or omissions shall be treated as a single claim; and

**B.** The limit of liability stated in the Declarations as "Aggregate" is, subject to the provisions of Article IV, Section A, respecting "Each Claim," the total limit of the Company's liability for all claims reported during the Policy Period.

**C.** Such limits of liability shall apply separately to each Named Insured only when so indicated in the Declarations, except the inclusion of more than one (1) Named Insured or the inclusion of shareholders, officers, directors, employees, or agents of the Named Insured in any one (1) claim shall not increase the Company's liability applicable to "Each Claim" as set forth in Article IV, Section A. Where limits of liability at the time of an incident or injury are not identical to limits of liability at the time the claim is made or reported, the limits of liability at the time of the incident or injury shall apply.

### V. EXCLUSIONS

**A. No Defense or Payment of Damages.** This Policy **does not** apply to the defense or payment of Damages for any claim arising out of the following:

**1. Activities Outside the Legal Scope of Practice.** Any claim arising out of a procedure performed that is outside the legal scope of naturopathic practice in the State(s) in which the service is rendered.

**2. No Active License.** Any act or omission if at the time of such act or omission, the Named Insured did not hold a current, active license, as required by the State(s) in which the act or omission occurred, to practice the profession listed in the Declarations.

**3. Excluded Services.** Any claim arising out of: a. Treatment or reduction of any fracture; b. Obstetrics or gynecology, including the delivery of babies, or care of newborn infants until they are fourteen (14) days old; c. Colonic irrigations, dehydration of hemorrhoids; d. Treatment of cancer, epilepsy, or acquired immune deficiency syndrome, except that treatment is not excluded if 1) such treatment is solely to alleviate pain or the side effects of medical care; and 2) during the entire period of treatment, the patient is under the care of a licensed physician for the condition or disease; e. Interference by the Named Insured or an insured under this Policy with the course of treatment recommended by a patient's treating physician; f. Gemstone therapy, meridian therapy, stressology, internal coccyx adjustment, and use of the Toftness device; g. Use of x-ray for other than diagnostic purposes; h. Acupuncture; i. Use of microwave, radium, fever therapy; j. Manipulation under anesthesia; or k. Any Professional Service listed in the Named Insured's Application Addendum that the Named Insured does not specifically disclose as being a modality employed by the Named Insured in the Named Insured's practice.

**4. Failure to Obtain Consent Form and Arbitration Agreement.** Whenever the Declarations indicates that coverage is "Elite", any claim where the Named Insured cannot provide to the Company a signed consent form and arbitration agreement pursuant to the requirements set forth in Article V, Section L, of the Policy.

**5. Breach of Application Warranty.** Any claim where the Named Insured violated General Condition Article V, Section D, of the Policy by failing to disclose the possibility of such claim. This exclusion applies only to such undisclosed potential claim.

**6. Collection Suits.** Any claim arising as a counter-claim by a patient who was sued for professional fees. Collection suits triggering this exclusion include, but are not limited to, those collections suits filed by a collection agency. Any claim made subsequent to a collection suit shall be presumed to be in response to the collection suit and to be in the nature of a counter-claim and, therefore, shall be within this exclusion.

**7. Drugs or Surgery.** Any injury arising out of the use, administration, or prescription of any drug or pharmaceutical for the treatment of human beings, unless a Scheduled Drug endorsement has been issued to the Named Insured listing that specific drug or pharmaceutical as a Scheduled Drug; or any injury arising out of the performance of any procedure involving the cutting or penetration of human tissue, unless such procedure has been previously disclosed in writing to the Company in the Named Insured's application for insurance, and the Company has approved such application.

**8. Failure to Obtain Certificate of Insurance.** Any claim that involves any Other Health Provider with whom the Named Insured currently or in the future 1) is a partner, 2) an employee, 3) an independent contractor, or 4) shares office space, where the Named Insured has failed to procure for the Company, automatically and without request, a current certificate of insurance from the professional liability insurer of such Other Health Provider, which provides that the Master Policy Holder named in the Declarations of this Policy receive ongoing notification of the status and any cancellation of such Other Health Provider's professional liability insurance.

**9. Suspended or Revoked License.** Any act or omission occurring while the Named Insured's license (or the licenses of its employees or agents) to practice or to operate a school for the Named Insured's Profession is under suspension or has been revoked, surrendered, or otherwise terminated in any State.

**10. Intoxicants/Narcotics or Drugs.** Any claim arising from a service rendered, or which should have been rendered and was not, while the Named Insured or its employee or agent is under the influence of intoxicants, narcotics, or drugs.

**11. Sex Act.** Any claim arising out of any sexual act, or acts performed or alleged to have been performed by the Named Insured or an employee or agent of the Named Insured, except for limited coverage for defense only of such claim as described in Article I, Section C, Paragraph 4.

**12. Criminal Act.** Any claim arising from an alleged criminal act, or any act allegedly committed while in violation of any law or ordinance.

**13. Workers' Compensation.** Any injury arising out of any obligation for which a Named Insured or an insurer has been or may be held liable under Workers' Compensation, Unemployment Compensation, Disability Benefits, or any similar law.

**14. Guaranteed Results.** Any claim arising from guaranteeing the results of services of the Named Insured or its employees or agent.

**15. Peer Review Activities.** Any claim arising from participation on a peer review committee, including, but not limited to, peer review committees of a hospital, trade association, or professional standards review organization.

**16. Officers' and Directors' Liability.** Any injury arising out of the rendering of or failure to render Professional Services by any other person for whose acts or omissions the Named Insured may be held liable as a member, partner, officer, director, or shareholder of any professional partnership, association, or corporation that is not

listed in the Declarations as being insured by this Policy.

**17. Proprietors.** Any liability of the Named Insured as a proprietor, medical director, superintendent, administrator, or executive officer of any hospital, sanitarium, surgicenter, clinic with bed and board facilities, skilled nursing facility, convalescent hospital, laboratory, or business enterprise.

**18. Employed or Supervised Other Health Providers.** Any injury from the acts or omissions of any Other Health Provider (other than a Relief Practitioner) employed or supervised by the Named Insured, unless written notice of the new employment or supervision of such Other Health Provider is given to the Company within thirty (30) days after such employment or supervision begins and the Company has issued its acceptance of an application for insurance from such Other Health Provider.

**19. Assumed Liability.** Any liability assumed by the Named Insured, including liability due to breach of contract or assumed by a Named Insured under oral or written contract or agreement or liability resulting from factual admissions by the Named Insured.

**20. Government Employment.** Any injury from the acts or omissions of Named Insured or its employees or agents while employed by the United States Government or any other governmental or public entity.

**21. Owned or Non-owned Motor Vehicles.** Any claim arising from the use of an owned or non-owned motor vehicle by the Named Insured or any shareholder, officer, director, employee, partner, or agent of the Named Insured.

**22. Other Activities.** Any claim arising from statements, acts or omissions by the Named Insured or by any other person alleged to be in connection with or related to any of the following: interference with contract; violations of state and/or federal antitrust or deceptive advertising laws; false arrest, detention or imprisonment; interference with a person's right to occupy his or her property undisturbed, including wrongful entry and wrongful eviction; products liability; malicious prosecution; any injury arising out of the writing of an article or paper for any publication; libel; slander; trade libel; trade slander; harming a person's reputation or violating a person's right of privacy; any injury or loss caused directly or indirectly by nuclear reaction, radiation, or radioactive contamination, whether controlled, uncontrolled, or accidental in nature or however caused, or any consequence of any of these; any injury or loss relating directly or indirectly to the Named Insured's actions as the employer of any claimant; discrimination; conversion; interference with prospective advantage; unfair competition; unfair trade and business practices; misappropriation of trade secrets; conspiracy to do any unlawful or tortious act; abuse of process; intentional or negligent infliction of emotional distress; negligent misrepresentation; fraud; any other intentional tort (even if such activities are related to a Named Insured's rendering of or failure to render Professional Services); or any injury from any act or any omission to the extent that such injury is not attributable to the rendering or failure to render Professional Services.

**23. Research Subject.** Any claim by any person who has ever been a research subject of the Named Insured or who was ever solicited to be a research subject of the Named Insured.

**B. No payment of Punitive Damages (Defense Only).** This Policy will provide a defense only, but does not provide any payment of punitive or exemplary damages.

## VI. EXTENDED COVERAGE

If coverage terminates under this Policy for any reason, the Named Insured shall have the right upon payment of an additional amount (to be computed in accordance with The Company's rules, rating plans, and premiums applicable) to purchase within thirty (30) days from the termination date of this Policy, Extended Coverage providing an additional reporting period in which claims otherwise covered by this Policy may be reported. Extended Coverage may also be purchased by the Named Insured's PC and/or any other additional insured, but coverage shall apply 1) only for an incident by a Named Insured; 2) only if such incident occurred during the Policy Period and was reported during the Policy Period or Extended Coverage Period of said Named Insured; and 3) only if such incident occurred during the period of coverage for the Named Insured's PC and/or additional insured for incidents by said Named Insured. There shall be no charge for Extended Coverage if the Named Insured retains access to all patient records who were treated by the Named Insured at any time during the Policy Period and either a) the Named Insured has been continuously a Named Insured for at least a ten (10) year period from the date this provision became a part of the Policy, b) Occurrence is the Claims Reporting Basis indicated in the Declarations, c) the Named Insured becomes disabled or retires and has been continuously insured for at least a five (5) year period with the Company, or d) the Named Insured dies during the Policy Period. In addition, if the Company cancels or non-renews this Policy for any reason other than the request of the Named Insured or non-payment of premium, the Named Insured shall automatically have an additional reporting period of thirty (30) days from the termination date of coverage in which claims otherwise covered by this Policy may be reported.

By: \_\_\_\_\_

Authorized Representative

## Professional Liability Insurance Policy

Notice: This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your State. State insurance insolvency guaranty funds are not available for your risk retention group. In consideration of the payment of the premium, in reliance upon the statements made in the application for insurance provided under this Policy, and subject to the limits of liability, exclusions, conditions, and other terms of this Policy, the Company and the Named Insured (as hereinafter defined) enter into the following contract for insurance:

### POLICY CONDITIONS

#### I. DEFINITIONS

When used in Policy:

**A. Bodily Injury** - means physical injury, sickness, disease or death of a person.

**B. Claim Reported** - means a written notice filed by the Named Insured and received by the Company, or a written notice or a Suit filed by a claimant or other person acting for the claimant and received by the Named Insured and by the Company, that alleges Damages to an injured party from acts or omissions by the Named Insured that are covered by this Policy.

**C. Company** - means Allied Professionals Insurance Company, a Risk Retention Group, Inc.

**D. Damages** - means all damages, including damages for death and for medical care resulting from injury. The term "Damages" does not include any sums demanded or awarded as punitive or exemplary damages, but does include the sums expended defending the Named Insured from any claims.

**E. Incident** - means any act or omission in performing Professional Services.

**F. Named Insured** - means the person or organization named in the Declarations of this Policy (the "Declarations").

**G. Other Health Provider** - means any person, other than the Named Insured, licensed, certified or registered under any health professions statute, or who recommends or renders any type of service, treatment, or procedure to maintain, diagnose, or treat any person's physical or mental condition or well-being, including, but not limited to, any physician, surgeon, podiatrist, nurse, anesthetist, chiropractor, acupuncturist, physical therapist, physical therapy assistant, or massage therapist.

**H. Policy** - means this policy, the Declarations to this policy, all applications for membership and / or coverage or endorsements to coverage provided by or on behalf of the Named Insured (including any supplemental documentation provided therewith) and all coverage endorsements issued to the Named Insured.

**I. Professional Corporation** - means a professional corporation as defined in the Declarations.

**J. Professional Services** - means services performed in the practice of the professional specialty or services designated in the Declarations.

**K. Suit** - includes (1) a cross claim, and (2) an arbitration to which the Named Insured is required to submit or to which the Named Insured has submitted with the Company's consent.

#### II. POLICY PERIOD; PREMIUMS; AUDITS

**A. Policy Period.** The initial policy period of this Policy is stated in the Declarations forming a part of this Policy. Subject to the right of the Company to cancel this Policy in accordance with the provisions of the Cancellation Condition, the Policy Period may be extended for successive periods by payment of the required renewal premium, and any other amounts required as a condition of such renewal, to the Company on or before the effective date of each successive period. The expiration date of such period shall be the end of the policy period.

**B. Premium.** All premiums and other charges for this Policy shall be computed in accordance with the Company's rules, rates, rating plans, premiums, and minimum premiums applicable to the insurance afforded herein and in effect with respect to the period for which premiums are due.

All premiums and other charges for this Policy are payable in advance to the Company or its authorized representative. The first payment is due at inception of the Policy. Each renewal payment is due on or before the expiration of the period for which the preceding payment was paid. Any payment not paid on or before its due date will be in default.

**C. Inspection and Audit.** The Company may examine, audit, and inspect the Named Insured's property, business operations, books, and records at any time during the policy period and renewals thereof within three (3) years after the final termination of this Policy, as far as they relate to the subject matter of this insurance. The Company is not required to make such inspections and audits and does not guarantee that the Named insured's operations are safe or that they conform to any laws, rules, or regulation.

#### III. CANCELLATION & NON-RENEWAL

**A. Cancellation or Non-Renewal.** The Named Insured may cancel this Policy by surrender thereof to the Company or any of its authorized agents, by mailing to the Company, written notice stating when thereafter the cancellation shall be effective. The Company may cancel or non-renew this Policy by mailing to the Named Insured at his or her latest address shown on the Company records, written notice stating when, not less than thirty (30) days thereafter, such cancellation or non-renewal shall be effective, unless cancellation is for nonpayment of premium in which case such notice will be not less than ten (10) days prior to the effective date of cancellation or non-renewal. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation or non-renewal stated in the notice shall become the end of the policy period. Delivery of such written notice either by the Named Insured or by the Company shall be equivalent to mailing. If this Policy is cancelled, the Company will send the Named Insured a refund of any unearned premium, computed on a pro-rata basis, as soon as practicable thereafter. Payment or tender of unearned premium is not a condition of cancellation.

#### IV. CLAIMS

**A. Incident Report.** Upon the happening of any incident reasonably likely to involve this insurance, written notice containing information sufficient to identify the Named Insured, time, place, and circumstances of the event, and the names and addresses of the injured and of available witnesses must be given by or for the Named Insured to the Company within three (3) business days of the happening of any such event or as soon as practicable.

**B. Notice of Claim or Suit.** If a claim or suit is reported against the Named Insured based on an Incident covered by this Policy, the Named Insured shall, within three (3) business days, by certified mail return receipt requested forward to the Company every demand, notice, summons, or other process received by him or her or by his or her representative. Failure to give such notice, including but not limited to failure to give notice of a claim or action until after the Named Insured has submitted to the jurisdiction of a court or until after judgment, shall constitute a material breach of the Policy resulting in total loss of coverage for such claim or action and shall constitute substantial and actual prejudice which adversely affects the rights of the Company, which bases its Policy and premiums on cost-containment methods of dispute resolution, mandatory arbitration, and settlement.

**C. Cooperation.** All persons insured under this Policy shall cooperate with the Company and, upon the Company's request, assist in making settlements in the conduct of suits and other proceedings; and shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses. This shall include permitting the Company to question any person insured under this Policy under oath, at such times as may be reasonably required, about any matter relating to this insurance or any claim, including the Named Insured's books and records. In such event, the answers provided must be signed by the person being questioned. No person insured under this Policy shall, except at his or her own cost, voluntarily make any payment or assume any obligation without the consent of the Company. No person insured under this Policy shall destroy, discard, alter, or fabricate any evidence related to a claim, whether in the form of documentation or physical, tangible objects or equipment, including, but not limited to, medical records, therapy tables, heat lamps, and tens units. This does not apply to signed, dated bona fide corrections to medical records.

#### V. GENERAL CONDITIONS

**A. Abide by Terms.** The Named Insured specifically agrees to abide by the terms and conditions of this Policy and by all rules and regulations of the Company relating to the conduct of the Named Insured's professional practice.

**B. Action Against the Company.** No action shall lie against the Company, its Agents, Employees, Brokers, or the Master Policy Holder unless, as conditions precedent thereto, 1) there shall have been full compliance with all of

the provisions of this Policy, 2) the Named Insured's liability and the amount of the Named Insured's obligation to pay shall have been finally determined either by judgment against the Named Insured after actual arbitration or trial or by written agreement of the Named Insured, the claimant and the Company, and 3) such action must be commenced within one (1) year of the date of loss or damage to the Named Insured.

**C. Arbitration.** All disputes or claims involving the Company shall be resolved by binding arbitration, whether such dispute or claim arises between the parties to this Policy, or between the Company and any person or entity who is not a party to the Policy but is claiming rights either under the Policy or against the Company. This provision is intended to, and shall, encompass the widest possible scope of disputes or claims, including any issues a) with respect to any of the terms or provisions of this Policy, or b) with respect to the performance of any of the parties to the Policy, or c) with respect to any other issue or matter, whether in contract or tort, or in law or equity. Any person or entity asserting such dispute or claim (the "Claimant") must submit the matter to binding arbitration with the American Arbitration Association, under the Commercial Arbitration Rules of the American Arbitration Association then in effect, by a single arbitrator in good standing. If the Claimant refuses to arbitrate, then any other party may, by notice as herein provided, require that the dispute be submitted to arbitration within fifteen (15) days. Neither the Claimant nor any other party shall have the right to participate as a member of any class of claimants, and there shall be no authority for any dispute to be decided on a class action basis. In addition, an arbitration can only decide a dispute between the Claimant and the Company, and may not consolidate or join the claims of other persons who have similar claims. All procedures, methods, and rights with respect to the right to compel arbitration pursuant to this Article shall be governed by the Federal Arbitration Act. The arbitration shall occur in Orange County, California. The laws of the State of California shall apply to any substantive, evidentiary or discovery issues. Any questions as to arbitrability of any dispute or claim shall be decided by the arbitrator. If any party seeks a court order compelling arbitration under this provision, the prevailing party in such motion, petition or other proceeding to compel arbitration shall recover all reasonable legal fees and costs incurred thereby and in any subsequent appeal, and in any action to collect the fees and costs. A judgment shall be entered upon the arbitration award in the U.S. District Court, Central District of California, or if that court lacks jurisdiction, then in the Superior Court of California, County of Orange.

**D. Application Warranty.** The Named Insured warrants that he or she has made true, correct, and full answers to all questions propounded to him or her upon the application for insurance coverage and agrees to provide the Company with full and correct answers to any other questions related to his or her competence or financial ability as shall be reasonably propounded to him or her by the Company.

**E. Breach of Policy.** Breach by the Named Insured or any person covered by this Policy of any of the conditions of this Policy shall subject the Named Insured to termination at the instance of the Company and upon thirty (30) days written notice.

**F. Change of Address.** The Named Insured will keep the Company apprised of his or her current addresses, both business and residential, and will report in writing any change of address within ten (10) days.

**G. Changes.** Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or bar the Company 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 to form a part this Policy by an authorized representative of the Company.

**H. Assignment.** Assignment by the Named Insured of his or her interest under this Policy shall not bind the Company until its consent is endorsed hereon; if however, the Named Insured shall die, such insurance as is afforded by this Policy shall apply to the Named Insured's legal representative, as the Named Insured, but only while acting within the scope of his or her duties as such.

**I. Other Insurance.** If the Named Insured and/or Additional Insured has other valid and collectible insurance available, the insurance afforded by this

Policy shall be secondary and shall not apply unless and until the limits of liability of such other insurance have been exhausted.

**J. Subrogation.** In the event of any payment under this Policy, the Company shall be subrogated to all the Named Insured's rights of recovery against any person or organization, and the Named Insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Named Insured shall do nothing after loss to prejudice such rights. The Company reserves the right to make counter-claims and to bring suit against persons making frivolous claims against the Named Insured. The Named Insured hereby grants that right to The Company and acknowledges that any award resulting from such counter-claim or suit shall be the property of the Company.

**K. Non-Assessability.** This Policy is non-assessable.

**L. Consent Form and Arbitration Form Required as a Condition of Coverage.** Whenever "Elite" is indicated in the Declarations, it shall be a condition precedent to The Company's obligations under this Policy that the Named Insured shall have obtained 1) a written consent to treatment, and 2) a written consent to mandatory binding arbitration from each patient or each patient's legal representative prior to the commencement of the treatment or procedure giving rise to the injury. Execution of these consents after commencement of treatment shall not satisfy this condition. Evidence of these consents shall have been recorded on a permanent document whose general form and content shall have been approved by the Company prior to its use. The Company shall have the right, in its sole discretion, to approve or reject any proposed form and the Company shall not be liable for the cost of furnishing or providing any such form to any Named Insured. For the purpose of complying with this Section, documents identical in form and content to the consent forms attached shall be deemed to be acceptable to the Company. The Named Insured shall make copies of such consents available to the Company upon request. The Named Insured is excused from complying with the provisions of this Section L when:

- (1) either, (a) care is being rendered to patient on an emergency basis where there is not sufficient time to obtain such consents, and the Named Insured makes reasonable efforts to obtain such consents after such emergency treatment is rendered; or (b) the Named Insured is specifically excused from obtaining such consents pursuant to written endorsement to the Policy; and
- (2) the Named Insured informs the Company in writing by certified mail, return receipt requested, within five (5) days of rendering such care, that treatment was rendered to a patient without such consents being obtained.

**M. Territory.** This Policy affords coverage for Professional Services rendered only in the State(s) set forth in the Declarations.

**N. Captions.** Captions or headings in this Policy are inserted only as a matter of convenience and for reference and shall not be deemed to define, limit, enlarge, or describe the scope of this policy or the relationship of the parties and shall not affect the Policy or the construction of any provisions herein.

**O. Endorsements.** Any endorsements to this Policy are part of this Policy, and all the conditions and terms of this Policy shall apply to such endorsements.

**P. Settlements.** The Company may settle any claim without the Named Insured's consent, unless the Named Insured: 1) Objects to the proposed settlement, 2) Requests that the amount of the proposed settlement be paid directly to the Named Insured by the Company and 3) Agrees to take over the defense of the claim at the Named Insured's sole expense. If the Named Insured makes such an election, then upon payment by the Company to the Named Insured of the proposed settlement amount, the Company shall have no further obligation of any kind to further defend or indemnify the Named Insured with regard to such claim.

**Q. Choice of Law.** This Policy and the rights of the parties hereunder shall be governed by and construed in accordance with the laws of the State of California, including all matters of construction, validity, performance, and enforcement without giving effect to the principles of conflict of laws. Notwithstanding this provision, arbitration shall be governed by the Federal Arbitration Act.

**IN WITNESS WHEREOF**, the Company has caused this Policy to be signed by its authorized representative(s), but the same shall not be binding unless countersigned by a duly authorized representative of the Company on the Declarations page.

By:   
Authorized Representative