



# Professional Liability Insurance Review for Medical Staff Services

Stephen Pires  
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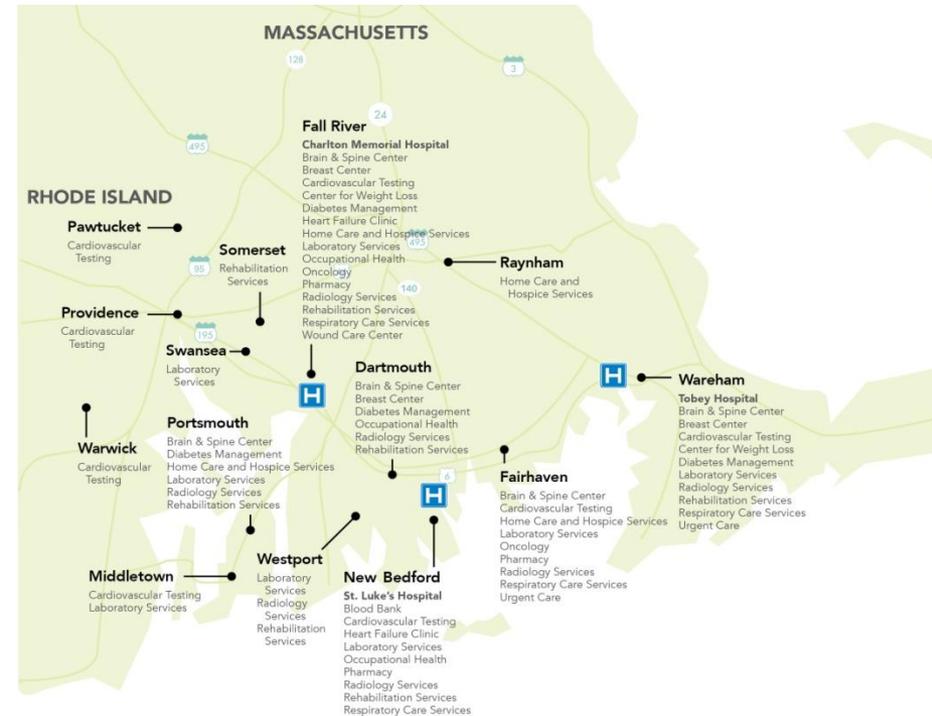
# Agenda

- Introduction – Southcoast Health
- Regulatory Background
- Review Professional Liability Insurance Terminology
- Review Insurance Certificates / Claims
- Discussion



# Southcoast Health

- Southcoast Health System is a community based health delivery system with multiple access points, offering an integrated continuum of health services throughout Southeastern Massachusetts and Rhode Island.
- Southcoast ACO
- Southcoast Hospitals Group
  - Charlton Memorial Hospital
  - St. Luke's Hospital
  - Tobey Hospital
- Southcoast Centers for Cancer Care
- Southcoast Surgery Center
- Urgent Care Centers
- Southcoast Physician Group
- Southcoast VNA





# Essential Equipment for Medical Staff Services

- C – V
- Reference letters
- Education Records
- Immigration Documents
- **Insurance Certificate**
- **Claims Data**
- NPBD
- Medical Reports
- CME
- Medicare Sanction
- Etc.



Credentialing  
Decision



# Regulatory Background

**Massachusetts Professional Licensing Boards**

**Rules and Regulations Requiring Malpractice  
Insurance Coverage**



# Physician Licensing Board Requirements for Professional Liability Insurance in Massachusetts

- 243 CMR 2.07: General Provisions Governing the Practice of Medicine  
(16) Mandatory Professional Malpractice Liability Insurance. As a condition of rendering any direct or indirect patient care in the Commonwealth, a licensee must obtain medical malpractice insurance as follows
  - (b) The coverage amount shall be at least \$100,000 per claim, with a minimum annual aggregate of not less than \$300,000, unless otherwise established by law. Coverage may be provided on an individual or shared limit basis.
  - (f) Coverage required by 243 CMR 2.00 shall be continued until the expiration of any statute of limitations relevant to the events or occurrences covered. Compliance may be through occurrence coverage or claims made with appropriate tail coverage.



# APRN – PA Licensing Board Requirements for Professional Liability Insurance in Massachusetts

- 244 CMR 4.09: Malpractice Insurance

An **APRN** with direct patient care responsibilities must obtain and maintain professional malpractice liability insurance with coverage of at least \$100,000.00 per claim, with a minimum annual aggregate of not less than \$300,000.00.

- 263 CMR 5.09: Legal Responsibility for Actions of **Physician Assistant**

(1) Where a physician assistant is employed by a physician or group of physicians, the employing physician or physicians shall remain legally responsible for the acts or omissions of said physician assistant at all times, including those occasions where said physician assistant, under the direction and supervision of said employing physician or physicians, aids in the care and treatment of patients in a health care facility.

(2) Where a physician assistant is employed by a health care facility, the employing health care facility shall be legally responsible for the acts or omissions of said physician assistant at all times.



# Licensing Board Requirements for Credentialing of Physicians in Massachusetts

- (d) The health care facility has established criteria for documenting and analyzing, and so documents and analyzes, where available, a licensee's:
  1. professional performance, judgment and clinical skills;
  2. mental and physical status;
  3. compliance with continuing education requirements;
  4. data dealing with utilization;
  5. adherence to health care facility and medical staff bylaws, policies and procedures;
  6. **malpractice claims filed against the licensee;** and
  7. information regarding any criminal proceedings.



# Licensing Board Requirements for Physicians to Provide Malpractice Information

- e) The licensee authorizes his or her medical malpractice liability insurance carrier or carriers to release to the health care facility the following information, described in M.G.L. c.112, § 5C, as to claims or actions for damages pending or closed during the previous ten years, whether or not there has been a final disposition:
  1. the policy number of the licensee against whom the claim is made;
  2. the name, address and age of the claimant or plaintiff;
  3. the nature and substance of the claim;
  4. the date and place at which the claim arose;
  5. the amounts paid, if any, and the date and manner of disposition, judgment, settlement, or otherwise;
  6. the date and reason for final disposition, if no judgment or settlement;.



# Professional Liability Insurance

- Evidence of Coverage
- Claims Information



# Evidence of Insurance – The Gold Standard Accord Forms

## Content of Certificate of Insurance

### Changes in January 2015 Law

- No form requirement
- No content requirement
- Must reflect underlying policy
- No false or misleading information
- Not required to notice recipient of changes / cancellation
- \$500 fine per violation

**ACORD<sup>®</sup> CERTIFICATE OF LIABILITY INSURANCE** DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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**COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

NEW LTD	TYPE OF INSURANCE	AGENCY NO.	SUBNO.	POLICY NUMBER	POLICY EFF. DATE (MM/DD/YYYY)	POLICY EXP. DATE (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROD. <input type="checkbox"/> LOC <input type="checkbox"/> OTHER						EACH OCCURRENCE \$ PRODUCTS - TOXIC/ENV. \$ PREMISES - EB \$ MCD EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMBOP AGG \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HRSO AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COLLISION/BREAK LIMIT \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<b>UMBRELLA/LIB</b> <input type="checkbox"/> EXCESS LIB <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> LTD <input type="checkbox"/> RESTRICTIONS						EACH OCCURRENCE \$ AGGREGATE \$
	<b>EMPLOYEE COMPENSATION AND EMPLOYER LIABILITY</b> ANY PROPRIETOR/PARTNER/RESOLUTIVE OFFICER/MEMBER EXCLUDED? (MANDATORY IN WA) TYPE, DURATION, USE, DESCRIPTION OF OPERATIONS SHOW		Y/N	N/A			<input type="checkbox"/> DIS. <input type="checkbox"/> STATUTE <input type="checkbox"/> OTH. ES. E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYED \$ E.L. DISEASE - POLICY LIMIT \$
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)							

<b>CERTIFICATE HOLDER</b>	<b>CANCELLATION</b>
	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE

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# Professional Liability Insurance

## - Common Terms/ Definitions



# Professional Liability Coverage - Policy Types

- Occurrence
  - An occurrence policy covers events that occur during the policy period regardless of when they are reported as claims. Highest annual premium.
- Claims-Made
  - A claims made policy covers events that occur during the policy period (on or after the retro-active date) AND are reported while the policy is still in force. Lowest annual premium.
- Modified Claims-Made
  - A modified claims made policy covers events that occur during the policy period (on or after the retro-active date) regardless of when they are reported.



# Professional Liability Coverage – Tail Policies

- Tail Coverage

- The “tail” (extended reporting endorsement) provisions are among the most important variables between occurrence and claims made policies to consider.
- An occurrence policy will cover a claim regardless of when it is reported.
- Without a tail provision a claims-made policy will not cover a claim reported to the carrier after the policy is no longer in force.

- 2 Options

- Purchase the extended reporting endorsement (“tail”) from current carrier OR purchase prior acts (“nose”) coverage from new insurance carrier.

Tail policies usually cost 200% of annual premium and are one set of limits



# Professional Liability Coverage - Limits

- Limits of liability
  - Amount the insurance company will pay in the event of a claim. If the limits of liability are “\$1,000,000 / \$3,000,000” it would mean that the insurance company would pay a maximum of \$1 million per occurrence and \$3 million per policy year for claims.
- Defense Costs
  - Defense costs could be either “inside” or “outside” the limits of liability.
  - Defense costs “outside” the limits of liability do not erode the limits of liability of the policy.
- Other Coverage / Exclusion
  - Common coverage – Regulatory Coverage – Fixed dollar amount per policy year.
  - Common exclusion – Willful act of wrongdoing , gross negligence, criminal acts.



# Take Aways

## Insist on necessary information

- Evidence of Insurance
  - Named Insured
  - Limits of liability
  - Type of Coverage
  - Retro date if applicable
  - Location
- Malpractice Claim Information
  - Date of Claim
  - Status Open or Closed
  - Description of Allegation
  - Disposition including amount of any indemnity payment

## Consider reading the BORM regulation

<http://www.mass.gov/eohhs/gov/departments/borim>

## Connect with Risk Management – Captive Manager