

# PATIENT PORTAL TERMS OF USE AGREEMENT

This Terms of Use Agreement ("Terms of Use" or "Agreement") governs your access and use of the software, websites, and services described herein.

**Terms and Definitions.** Throughout this Agreement you will see the terms "Website," "Portal," and "Patient." The term "Website" refers to the Pulmonary and Critical Care Specialists of Northern Virginia, P.C. (PCCS) internet web address located at <https://www.pccsnova.com/> where our "Notice of Privacy Practices" can be found. The term "Portal" or "Patient Portal" refers to <https://www.myhealthrecord.com>, which is the internet web address that provides access to portions of your electronic health records that are created, received, or maintained by PCCS. The term "Patient" refers to the pronouns, "me," "you," "your," and "I", which is the person signing into the Portal, with the objective of interacting with your electronic health record.

**Acceptance and Participation.** **It is important that you read and understand all of the following terms and conditions carefully.** You understand and agree that this Terms of Use Agreement is a legally binding agreement between you and PCCS. It states the terms and conditions under which you may access and use the Portal and all written and other materials displayed or made available through the Portal, which may include, without limitation: clinical documentation, health records, articles, text, photographs, and images, (the "Content"). By accessing and using the Portal, you are indicating your acceptance and confirm that you have read, understood, and agree to be bound by the terms and conditions of this Agreement and the related Notice of Privacy Practices. If you do not accept these terms and conditions, your immediate remedy is to not access or continue to use the Portal. PCCS reserves the right at its sole discretion to make changes to portions or all of these Terms of Use and the Notice of Privacy Practices at any time. Your continued use of the Portal after such changes are posted will signify your acceptance of these revised terms. You should visit this page periodically to review

this Agreement. PCCS does not assume any obligation to notify you of any changes to this Agreement.

**Medical Emergencies.** You understand that the Portal is not meant to be used in the case of an emergency. For all matters requiring urgent care which you believe may negatively impact your health or well-being, you understand that you must call 911 or proceed to the emergency department. You agree that under no circumstances should you attempt self-treatment based on anything you have seen or read on the Portal or the PCCS Website.

**Eligibility for Use.** All patients who are over the age of 18 who have received healthcare at PCCS are eligible to use the Patient Portal. Access to the Portal is provided with single sign-on login credentials (username and password) and remains active unless you notify us that you would like to opt out, or, you have violated these terms and conditions resulting in termination of your access.

**No Access for Minors.** You understand that the portal is not available for use by persons under 18 years of age. If you are under 18 years old, please contact PCCS at [(xxx) xxx-xxxx] during our normal business hours to discuss alternative methods to send/receive information contained within your electronic health record.

**PCCS Patient Portal Access and Use.** You understand that the Portal is intended to be used only by individuals who wish to use the services and functionality that the Portal provides in connection with their health and well-being. You understand that all communication through the Portal will be regarding your own health care needs and treatment. You understand that asking for clinical advice on behalf of another person has the potential to cause injury or harm and is a violation of these terms and conditions which may result in termination of your access to the Portal. To that end, PCCS does not assume any liability whatsoever for any health information or advice used by persons other than the user; the person who is logging in to the Portal to access health records.

**General Information Is Not Medical Advice.** The Content on the PCCS Website, or the Portal is NOT considered medical advice or treatment rendered and is not intended in any way to be a substitute for direct patient care. In more specific terms, the Content is not intended for use in the diagnosis, cure, treatment, or prevention of any disease and must never be relied on to make medical or clinical decisions regarding your care. Always seek the advice of a provider or other qualified healthcare professional who is properly licensed to practice medicine or provide healthcare in your jurisdiction concerning any questions you may have regarding any information obtained from the PCCS Website and/or any medical condition you believe may be relevant to you. Never disregard professional medical advice or delay in seeking it because of something you have read on the PCCS Website. Always consult with your provider or other qualified healthcare provider before embarking on a new treatment, diet, or fitness program. Information obtained on the PCCS Website or the Portal is not exhaustive and does not cover all diseases, ailments, physical conditions, or their treatment. You should always seek a direct, in-person appointment with your provider to assess any health-related concerns so a proper diagnosis and treatment can be administered.

**Medical Disclaimers; No Provider-Patient Relationship.** The presentation of Content on the PCCS Website, or the Portal does not necessarily establish a provider-patient relationship between you and PCCS (or any of its providers) and is not intended as a solicitation of individuals to become patients or clients of PCCS (or any of its providers).

This section does not apply to the extent that you are using the Portal to communicate with a provider with whom you have an existing provider-patient relationship. In the event you have established a relationship, PCCS will not be held liable or responsible in any way for any injury resulting therefrom, or any injury that may result from unfulfilled appointments, cancelled or otherwise.

**No Endorsements; Technology or Otherwise.** You understand that the Portal is accessible on many of the major computing platforms that offer a web-based browser. PCCS makes every best attempt to ensure that the user experience is consistent across each platform. You understand that depending on which platform and browser you use to access the Portal the "look" and "feel" may

be slightly different. PCCS does not recommend or endorse any specific technology to access the Portal. You understand that the Portal is only available from a web-based browser; an "App" for mobile devices is not available at this time. However, the Portal can be accessed with any internet capable web-based browser on your mobile device. Additionally, unless specifically stated, PCCS does not recommend or endorse any specific brand of products, services, procedures, or other information that appears or that may be advertised on the PCCS Website.

**Disclaimer of Warranties.** The Portal is provided "AS IS" and "AS AVAILABLE." While PCCS endeavors that the Portal is accessible 24/7, PCCS makes no representations or warranties, expressed or implied that the Portal will be made available at "ALL TIMES." You acknowledge and agree that your access and use of the Portal is provided entirely AS IS except in the case of events beyond PCCS' reasonable control including, without limitation: Internet outages or interruptions to service, repair or system maintenance, natural disasters and acts of terrorism, or war. You assume full responsibility and risk of loss of private information resulting from the downloading, printing and/or accessing of your records or any other Content via the Portal, which includes, but is not limited to loss of privacy of such records. PCCS assumes no accountability and disclaims all liability resulting from inaccuracies or inaccessibility in any software, communication lines, the Internet, your Internet Service Provider (ISP), or technical issues originating from the computer or device that you use to access the Portal. In the event that the Portal is unavailable, there are other methods of contact available to you, such as the telephone, or visiting the clinic during regular business hours. PCCS makes no guarantees on the completeness, accuracy, consistency, or currency of the information available to you on the Portal.

**Limitation of Liabilities.** IN NO EVENT SHALL PCCS, ITS PROVIDERS, DIRECTORS, EMPLOYEES, AGENTS, AND WORKFORCE MEMBERS, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS BE LIABLE FOR DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION: ANY

DIRECT, SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING, WITHOUT LIMITATION: ANY LOSS OR DAMAGES IN THE

NATURE OF, OR RELATING TO, LOST BUSINESS, MEDICAL INJURY, PERSONAL INJURY, WRONGFUL DEATH, IMPROPER DIAGNOSIS, INACCURATE INFORMATION, IMPROPER TREATMENT, OR ANY OTHER LOSS INCURRED IN CONNECTION WITH YOUR USE, MISUSE, OR RELIANCE UPON THE PORTAL OR THE CONTENT, OR YOUR INABILITY TO USE THE PORTAL, REGARDLESS OF THE CAUSE AND WHETHER ARISING IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), TORT (INCLUDING NEGLIGENCE), OR OTHERWISE. THE FOREGOING LIMITATION SHALL APPLY EVEN IF PCCS KNEW OF OR OUGHT TO HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

PCCS ALSO EXPRESSLY DISCLAIMS ANY AND ALL LIABILITY FOR ANY INADVERTENT LOSS OF DATA TO OR FROM THE PORTAL OR DAMAGE TO COMPUTER OR MEDIA AS A RESULT ERRORS CAUSED BY HUMAN AND/OR MACHINE ERRORS, OMISSIONS, OR DELAYS. YOU UNDERSTAND AND AGREE THAT USE OF OR CONNECTION THROUGH THE INTERNET IS INHERITENTLY INSECURE AND THAT USING THE INTERNET TO CONNECT TO THE PATIENT PORTAL PROVIDES OPPORTUNITY FOR UNAUTHORIZED ACCESS BY A THIRD PARTY TO COMPUTER SYSTEMS, MOBILE DEVICES, NETWORKS AND ANY AND ALL INFORMATION STORED THEREIN.

UNDER NO CIRCUMSTANCES SHALL PCCS, ITS PROVIDERS, DIRECTORS, EMPLOYEES, AGENTS, AND WORKFORCE MEMBERS, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, BE LIABLE FOR ANY ADVERSE INJURY, LOSS, DAMAGE (INCLUDING DIRECT, SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES), OR EXPENSE ARISING IN ANY MANNER WHATSOEVER OF YOUR CONNECTION TO OR USE OF THE PATIENT PORTAL, THE INTERNET, OR MOBILE DEVICES. PCCS SHALL NOT BE LIABLE OR RESPONSIBLE FOR: (1) THE ACTS, OMISSIONS, OR CONDUCT OF ANY THIRD-PARTY; AND (2) ANY ACCESS, USE, RELIANCE UPON, OR INABILITY TO USE ANY MATERIALS, CONTENT, OR SERVICES LOCATED AT, OR MADE AVAILABLE ON THE PORTAL OR ANY WEBSITE LINKED TO OR FROM THE PCCS WEBSITE, REGARDLESS OF THE

CAUSE AND WHETHER ARISING IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), TORT (INCLUDING NEGLIGENCE), OR OTHERWISE. THE FOREGOING LIMITATION SHALL APPLY EVEN IF PCCS KNEW OF OR OUGHT TO HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES.

**Indemnity.** You agree to indemnify, defend, and hold harmless PCCS and its providers, directors, employees, agents, and workforce members, and their respective successors and assigns, from and against any and all claims, demands, liabilities, costs, or expenses whatsoever, including, without limitation: legal fees and disbursements resulting directly or indirectly from (1) your breach of any of the terms and conditions of this Agreement; (2) your access to, use, misuse, reliance upon, or inability to access or use the Portal (3) your use of, reliance on, publication, communication, distribution, printing, uploading, or downloading of anything (including the Content) on or from the Portal.

**Limited License.** Subject to the terms and conditions of this Agreement, you are hereby granted a limited, non-transferable, and non-exclusive license to access, view, and use the Portal and the Content for your personal, non-commercial use. You are granted the right to download, store, and/or print copies of items comprising the Content for your personal, non-commercial use, provided that you maintain all copyright and other notices contained in such Content. You may not copy and/or repost items comprising the Content online. You must also abide by any additional requirements governing the use of any specific Content that may be set out in the Portal. In the event of a conflict between the terms of a license governing specific Content and this Agreement, the terms of the specific license shall govern.

**Passwords.** You understand that the Portal utilizes single sign-on username and password. You understand that you alone are responsible for protecting the confidentiality of your username and password. This responsibility includes not allowing another person to use your credentials to access the Portal. You understand that if this information is shared with anyone or compromised, then all inquiries and submissions made via the Portal will be logged under your username. Furthermore, you understand that you will be responsible for any losses or damages that may occur as a result of your failure to maintain the strict confidentiality of your username and

password. If you suspect that your password has been compromised, your immediate remedy is to change it by visiting <https://www.myhealthrecord.com> and clicking on the reset/create password link.

**Secure Message Handling.** The Portal enables you to send an electronic secure message to PCCS to initiate a conversation with PCCS staff. You are also able to respond to certain messages the PCCS healthcare team sends to you electronically via the Portal. You agree that you will not use the secure message feature to misrepresent your identity, interfere, abuse, intimidate, harass, or stalk any other user(s) of the Portal. You understand that messages you receive may contain important information vital to your health, medical care and wellbeing and understand that it is your responsibility to monitor these messages. You agree not to hold PCCS liable for any losses, injury or claims of any kind resulting from your failure to read electronic messages sent to you in a timely manner. Messages sent electronically between you and the PCCS healthcare team are not guaranteed to take place in real-time; therefore, no attempts should be made by you to send any communication electronically to PCCS requiring immediate or prompt attention. PCCS will make every best attempt to provide you with a timely response to electronic inquiries made from the Portal. The typical response time PCCS strives for is up to two (2) business days. Members of PCCS' staff other than your provider may be able to access information posted on the Portal. You should discuss certain sensitive healthcare information, such as HIV status, STD test results, and mental health issues, directly with your PCCS provider and not post that information on the Portal.

**Conduct Regarding Document Uploads ("Submissions").** The Portal provides a feature which allows you to upload ("post") "Submissions" in the form of text, pictures, documents, or other files to the Document Upload area of the Portal that are then accessed by PCCS staff. This feature is intended for use by you to submit files and documents to PCCS electronically in place of, or in addition to sending documents through the mail or visiting PCCS in person. PCCS reserves the right, at all times, to preserve any information as required to cooperate with any law enforcement requests, or to edit, refuse to post, or refuse to remove any upload, in whole or in part, that, in PCCS' sole discretion, are objectionable or in violation of this Agreement. You

acknowledge that you alone are responsible for the Content of your Submissions and the consequences thereof.

When using any of the features of the Portal which allow you to post, upload, or make Submissions, it is a condition of your use that you DO NOT:

1. Restrict, intimidate, or inhibit any other user from using and accessing the Portal, interfere or attempt to interfere with the proper workings of the Portal, or do anything, which in the sole discretion of the PCCS, imposes an unreasonable or disproportionately large load on the Portal infrastructure;
2. Post or transmit any unlawful, abusive, defamatory, indecent, obscene, inaccurate, false or misleading information of any kind, including, without limitation: any submission constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any local, state, or federal laws or regulations;
3. Upload any materials which contains a virus, malicious code, or computer payloads of any kind, which are intended to do harm to user or computer; including but not limited to, denial of service attacks, gaining access to another users account, stealing personal information, or otherwise exploit the "System" or "Data" for personal gain.
4. Use or "mine" the Portal for unsolicited purposes - commercial or otherwise, including, without limitation: posting, uploading, or transmitting any material which contains advertising, which engages in commercial activities, solicitations or sales, or which involves contests, sweepstakes, advertising, or pyramid schemes.

**Grant of License Regarding Submissions.** By posting or uploading Submissions to the Portal, you grant PCCS a royalty-free, perpetual, non-exclusive, irrevocable, unrestricted, license to use, reproduce, store, transmit, or display such Submissions for any treatment, payment, or healthcare operations purposes. You acknowledge and agree that PCCS is not

responsible for any loss, damage, or corruption that may occur to your Submission; and acknowledge and agree that your Submission will be kept confidential consistent with our Notice of Privacy Practices.

**Data Privacy and Security.** You understand that PCCS employs the same considerations and safeguards to protect the confidentiality of your online health information that is given to your health records in any other format. For a more complete explanation of how PCCS "Uses" and "Discloses" your protected health information, see our Notice of Privacy Practices. You understand that while the Portal provides you with access to many of your own health records, you may not be able to see all of your records. For example, the PCCS healthcare team may not be permitted to release certain information about HIV status, mental health related encounters or issues relating to drug and alcohol abuse, even if you have previously authorized their release. You understand that you may however use other methods to find out more information about these sensitive records, such as contacting PCCS by phone, by completing a records release request, or in some cases, visiting PCCS in-person.

PCCS utilizes industry best practices specified in the HIPAA Security Rule located at § 45 CFR Part 160, subparts A and C of Part 164 to ensure your health information is confidential and secure. You understand that if you choose to download or print out my medical records and misplace or lose them, then that information may longer be private, and you understand and agree to hold harmless PCCS for any information you may have lost or misplaced. You acknowledge that there are additional security features that you can monitor to help ensure your health information remains protected. For example, you will be able to verify the date and timestamp of your last logon onto the Portal home page once you are logged in.

**Modification or Termination of the Portal.** PCCS reserves the right any time, and from time to time, to modify or discontinue, temporarily or permanently, the Portal (or any part thereof) with or without notice to you. PCCS shall have no liability to you or any third party for any modifications, suspension, or discontinuance of the Portal or any part thereof.

**Governing Law and Jurisdiction.** Any cause or action arising out of or related to this Agreement may only be brought in the courts of applicable jurisdiction in the Commonwealth of Virginia, without regard to its conflicts of law principles, and the parties hereby submit to the jurisdiction and venue of such courts.

**Waiver.** Any consent by PCCS to, or waiver of, a breach of this Agreement which you have committed, whether express or implied, shall not constitute a consent to, or waiver of any other, different, or subsequent breach. You understand that if you choose to share your password with another person, that PCCS assumes no responsibility and will not be liable for any breach of confidentiality that may occur to your electronic medical record as a direct result of you intentionally sharing, inadequately protecting, or failing to protect your password.

**Severability.** The invalidity or unenforceability of any provision of this Agreement or any covenant contained herein shall not affect the validity or enforceability of any other provision or covenant contained herein and any such invalid provision or covenant shall be deemed severable from the rest of this Agreement.

**Terms of Use Violation.** You acknowledge and agree that PCCS may preserve any communications, secure messages, and document uploads sent/received through the Portal and may disclose such communications when disclosure is reasonably necessary to: (1) comply with investigations by law enforcement agencies; (2) enforce this Terms of Use Agreement; (3) respond to claims that any communication harms or violates the rights of others; or (4) protect the rights and personal safety of PCCS and its providers, directors, employees, agents, workforce members, and their respective successors and assigns. PCCS may, at its sole discretion, suspend or terminate your right to use the Portal, either temporarily or indefinitely at any time without notice if you are found in violation of this Terms of Use Agreement. In the event of suspension or termination, you are no longer authorized to access the Portal which shall survive in effect as full force the termination of this Agreement. **PCCS shall not be liable to any party for such termination.**

**Copyrights.** Except as otherwise indicated, all Content on the Portal is the property of PCCS and/or its licensors and is protected by copyright law. You may not use the Content except in connection with your use of the Portal in accordance with this Agreement.

**Trademarks and Service Marks.** The name, words, symbols and graphics representing PCCS are trademarks of PCCS and are protected by the trademark laws of the United States. Such names, words, symbols, or graphics may be identified by the symbols, “R”, “TM”, or “SM”. You are not permitted to use any of PCCS’ trademarks or service marks.

**Application.** This Agreement is intended only for the use of patients of PCCS who are located in the United States and other territories controlled by the United States. PCCS cannot deliver medical services to persons, or allow persons to use the Portal, who are located outside the United States and other territories controlled by the United States.

**Entire Agreement.** This is the entire Agreement between you and PCCS relating to your access and use of the Portal.

**Acceptance.** You understand that, by clicking “[Sign up]” and using the Portal, you agree to the Terms of Use in this Agreement. You also agree to sign a paper copy of this Agreement on your next visit to PCCS. You agree that your electronic signature has the same effect as your handwritten signature for legal purposes in enforcing and construing this Agreement.

**Last Updated: February 19, 2021**