

## Terms of Use

Effective Date: November 14, 2024

Updated date: December 12, 2024

These Terms of Use ("Terms") describe the terms and conditions on which Magic Valley Family Practice (the "Practice," "we," "our," or "us") provides access to, and governs the use of, this website, located at uniform resource locator [Insert URL] (the "Site") and its associated services including, without limitation, scheduling new patient or returning patient appointments.

These Terms are important, contain legal obligations and affect your legal rights, so please read them carefully. For the avoidance of doubt, these Terms do not apply to your receipt of healthcare services from the Practice.

BY ENTERING, ACCESSING, BROWSING, SUBMITTING INFORMATION TO, OR OTHERWISE USING THE SITE, YOU ACKNOWLEDGE AND AGREE TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, YOU MAY NOT ACCESS OR USE OUR SITE.

### 1. Eligible Users

If you are under the age of 18, please do not use the Site without the supervision of a parent or legal guardian who agrees to be bound by these Terms. By using the Site, or by supervising someone using the Site, you represent that you are at least 18 years old and have the full power and authority to enter into these Terms.

### 2. Permitted Use of the Site

The information and materials on the Site are provided for general informational purposes. The Practice grants you a limited right to use the Site solely for the purposes of learning about the Practice products or services, including, without limitation, scheduling new patients or returning patient appointments.

### 3. Use Restrictions; Proprietary Rights

A. You agree that: (i) you will only use the Site for lawful purposes; (ii) you will not use the Site for any fraudulent purposes or to engage in any illegal, offensive, indecent or objectionable conduct; (iii) you will not use the Site to cause nuisance, annoyance or inconvenience; (iv) you will not impair the proper operation of the Site; (v) you will not try to harm the Site in any way whatsoever; (vi) you will not copy or distribute the Site or any other content without written permission from us; and (vii) you will only use the Site for your internal operations and will not resell it to a third party or otherwise use it for commercial purposes.

B. You agree to protect the Site, and its proprietary content, information and other materials, from any unauthorized access or use, and you agree that you will not use the Site, or such proprietary content, information or materials except as authorized in writing by the Practice. You agree that you will not directly or indirectly: (i) distribute, sell, assign, encumber, transfer, rent, lease, loan, sublicense, modify, time-share or otherwise exploit the Site in any unauthorized manner, including but not limited to by trespass or burdening network capacity; (ii) use the Site in any service bureau arrangement; (iii) copy, reproduce, adapt, create derivative works of, translate, localize, port or otherwise modify the Site, in whole or in part, in any form or manner, or by any means; (iv) harvest or scrape any content or data from the Site; (v) remove or alter any copyright or other proprietary rights' notice or restrictive rights legend contained or included in the Site; (vi) decompile, disassemble, reverse compile, reverse assemble, reverse translate or otherwise reverse engineer any part of the Site in whole or in part; (vii) use any means to discover the source code of any portion of the Site; or (viii) otherwise circumvent any functionality that controls access to or otherwise protects the Site; or (ix) permit any third party to engage in any of the acts described in clauses (i) through (viii). Any attempt to do any of the foregoing is a violation of the Practice's and our licensors' rights. If you breach these restrictions, you may be subject to prosecution and damages.

C. The Practice and our licensors reserve the right to change, suspend, remove, or disable access to the Site, or any portion of the Site at any time without notice. In no event will the Practice be liable for the removal of or disabling of access to the Site or any portion thereof. The Practice may also impose limits on the use of or access to the Site, in any case without notice or liability.

D. The Site and its content, including its "look and feel" (e.g., text, graphics, images, logos) proprietary content (e.g., scheduling availability), information and other materials, are protected under intellectual property, copyright, trademark, and other laws. You agree that the Practice and/or our licensors own all right, title and interest in and to the Site (including, without limitation, any patent, copyright, trade secret, trademark, know-how and any and all other intellectual property rights in or related to the Site) and you agree not to take any action(s) inconsistent with such ownership interests. You do not acquire any rights or licenses under any of the Practice's (or our licensors') patents, patent applications, copyrights, trade secrets, trademarks or other intellectual property rights on account of these Terms.

E. Any and all (i) suggestions for correction, change and modification to the Site and other feedback (including but not limited to quotations of written or oral feedback), information and reports provided to the Practice by you (collectively “Feedback”), and all (ii) improvements, updates, modifications or enhancements, whether made, created or developed by the Practice or otherwise relating to the Site and/or Service (collectively, “Revisions”), are and will remain our property. You agree that any contribution of Feedback or Revisions does not and will not give or grant you any right, title or interest in the Site or in any such Feedback or Revisions. You agree to assign to the Practice any and all right, title and interest (including, but not limited to, any patent, copyright, trade secret, trademark, show-how, know-how, moral rights and any and all other intellectual property right) that you may have in and to any and all Feedback and Revisions.

#### 4. Notice; Electronic Communications

When you visit the Site or send emails to the Practice, you are communicating with us electronically. You consent to receive communications from us electronically. We will communicate with you by email or by posting notices on the Site. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.

#### 5. Short Code Terms of Service

When you opt-in to the SMS service, we will send you an SMS message to confirm your signup. The SMS service is used to send you appointment reminders and other related messages.

##### **OPT OUT INFO**

You can cancel the SMS service at any time. Just text “**STOP**” to the short code. After you send the SMS message “**STOP**” us, you will be unsubscribed from the service. After this, you will no longer receive SMS messages from us. If you want to join again, just sign up as you did the first time and we will start sending messages to you again. If at any time you forget what keywords are supported, just text “**HELP**” to the short code. After you send the SMS message “**HELP**” to us, we will respond with instructions on how to use our service as well as how to unsubscribe.

**We are able to deliver messages to certain mobile phone carriers, including, without limitation, AT&T, Verizon Wireless, Sprint, T-Mobile and MetroPCS. Carriers are not liable for delayed or undelivered messages. MESSAGE AND DATA RATES MAY APPLY**

**As always, message and data rates may apply for any messages sent to you from us and to us from you. The frequency with which you receive messages may vary. If you have any questions about your**

**text plan or data plan, it is best to contact your wireless provider. For all questions about the services provided by this short code.**

**The Practice does not share your information with third parties, except as permitted by law. If you have any questions regarding privacy, please read the Practice's Privacy Policy here.**

## 6. Privacy

The Privacy Policy is incorporated and made part of these Terms. You hereby agree to such Privacy Policy. Any personal information (for example, your name, date of birth, address, telephone number or email address) that you transmit to the Site will be used by the Practice in accordance with the Privacy Policy. Specifically, when using the Site to schedule an appointment, you agree that the information provided through the "Schedule Your Appointment" webpage may be collected and used for the purposes set forth in the Privacy Policy, including, without limitation, for analytics and advertising purposes, irrespective of whether the scheduling form was only partially completed or the scheduled appointment was thereafter canceled.

Note that our Privacy Policy does not describe how we treat your protected health information ("PHI") under the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations, as amended ("HIPAA"). If you have any questions about how we treat your PHI, please review the Notice of Privacy Practices.

## 7. Reservation of Rights

We may modify, suspend or discontinue any aspect of the Site at any time without prior notice. You agree that we are not liable to you or any third party for any modification, suspension or discontinuance of any feature or component of the Site. In addition, we reserve the right, at any time and for any reason, with or without notice, and without liability to you or any other user, to: (a) restrict, limit, suspend or terminate your and/or any other user's access to the Site; (b) monitor any user's use of the Site to verify compliance with these Terms and/or any applicable law; (c) investigate any suspected or alleged misuse of the Site and cooperate with law enforcement and/or third parties in such investigation; and (d) disclose information about any user's use of the Site in connection with law enforcement investigation of alleged illegal activity, or in response to a lawful court order or subpoena.

## 8. Disclaimer – Warranty

THE SITE, ITS CONTENT, MATERIALS, SERVICES AND PRODUCTS ON THE SITE ARE PROVIDED "AS IS." TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, THE PRACTICE HEREBY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

The Practice does not represent or warrant that the functions contained in the Site will be uninterrupted or error-free, that the defects will be corrected, or that the Site or the server that makes the Site available are free of viruses or other harmful components. The Practice does not make any warranties or representations regarding the use of the materials in the Site in terms of their correctness, accuracy, adequacy, usefulness, timeliness, reliability or otherwise. Some states do not permit limitations or exclusions on warranties, so the above limitations may not apply to you.

#### 9. Indemnification

You agree to indemnify, defend, and hold harmless the Practice, its officers, directors, employees, agents, licensors and suppliers from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from any violation of these Terms or any activity related to your account (including negligent or wrongful conduct) by you or any other person accessing the site using your Internet account.

#### 10. Limitations of Liability

YOUR USE OF THE SITE IS AT YOUR OWN RISK. NEITHER THE PRACTICE, NOR ANY OF ITS SUBSIDIARIES, AFFILIATES, OFFICERS OR DIRECTORS, NOR ANY OF ITS AGENTS OR ANY OTHER PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THE SITE OR ITS CONTENT, ARE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR OTHER DAMAGES ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE SITE, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF ANY SUCH DAMAGES.

Some states do not permit limitations or exclusions on warranties, so the above limitations may not apply to you.

#### 11. Third-Party Links

Links from this Site to third-party websites do not imply the Practice's endorsement of any other websites' content, product or service. Links from this website to third-party websites are provided for your convenience and are intended only to enable access to these third-party websites and for no other purpose. Please use your independent care and judgment when accessing these third-party websites.

## 12. Intellectual Property

The Site and all of its contents (including, without limitation, text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations and software) are the property of the Practice or its licensors and are protected by United States and international copyright laws. The Practice reserves all intellectual property rights not expressly granted under these Terms.

## 13. Dispute Resolution

Any controversy or claim between the parties or arising out of these Terms or any use of the Site shall be determined by one disinterested arbitrator in binding arbitration pursuant to the Commercial Arbitration Rules and the Supplementary Procedures for Online Arbitration of the American Arbitration Association (the "AAA"). The arbitrator shall be experienced in agreements for information technology services, either as an attorney or as an information technology professional. If the parties fail to appoint an arbitrator within forty-five (45) days of the institution of the arbitration, the AAA shall select the arbitrator promptly thereafter. Any requests for accelerated, emergency or preliminary relief shall be submitted pursuant to the AAA's Optional Rules for Emergency Measures of Protection. If any such requests are made before an arbitration panel is empaneled, then the AAA shall appoint one disinterested arbitrator as an arbitration panel to immediately hear and decide such request. The arbitration panel shall have the right to grant interim awards. Testimony shall be permitted by telephone, video conference and other forms of real-time telecommunications. If the arbitrator requires in-person hearings, the hearings shall be held in Effingham, Illinois. The arbitral award will be final and binding, and may be entered and enforced in any court of competent jurisdiction. Notwithstanding the foregoing, you agree that a breach of these Terms will cause irreparable injury to the Practice for which monetary damages would not be an adequate remedy and that the Practice will be entitled to seek equitable relief in any court of competent jurisdiction, in addition to any other remedies available to us under these Terms, or at law without a bond, other security or proof of damages.

## 14. Waiver of Jury Trial and Class Actions

BY ENTERING INTO THESE TERMS, YOU AND THE PRACTICE ACKNOWLEDGE AND AGREE TO WAIVE CERTAIN RIGHTS TO LITIGATE DISPUTES IN COURT, TO RECEIVE A JURY TRIAL OR TO PARTICIPATE AS A PLAINTIFF OR AS A CLASS MEMBER IN ANY CLAIM ON A CLASS OR CONSOLIDATED BASIS OR IN A

REPRESENTATIVE CAPACITY. YOU AND THE PRACTICE BOTH AGREE THAT ANY ARBITRATION WILL BE CONDUCTED ON AN INDIVIDUAL BASIS AND NOT A CONSOLIDATED, CLASS-WIDE OR REPRESENTATIVE BASIS AND THE ARBITRATOR SHALL HAVE NO AUTHORITY TO PROCEED WITH AN ARBITRATION ON A CLASS OR REPRESENTATIVE BASIS. THE ARBITRATOR MAY AWARD INJUNCTIVE RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT NECESSARY TO PROVIDE RELIEF WARRANTED BY THAT PARTY'S INDIVIDUAL CLAIM. IF FOR ANY REASON THE ARBITRATION CLAUSE SET FORTH IN THESE TERMS IS DEEMED INAPPLICABLE OR INVALID, OR TO THE EXTENT THE ARBITRATION CLAUSE ALLOWS FOR LITIGATION OF DISPUTES IN COURT, YOU AND THE PRACTICE BOTH WAIVE, TO THE FULLEST EXTENT ALLOWED BY LAW, ANY RIGHT TO PURSUE OR TO PARTICIPATE AS A PLAINTIFF OR AS A CLASS MEMBER IN ANY CLAIM ON A CLASS OR CONSOLIDATED BASIS OR IN A REPRESENTATIVE CAPACITY.

#### 15. Law and Jurisdiction

These Terms and your use of the Site are governed by the laws of the State of Illinois, without regard to its choice of law provisions. The courts of general jurisdiction located within Effingham, Illinois, will have exclusive jurisdiction over any and all disputes arising out of, relating to or concerning these Terms and/or the Site or in which these Terms and/or the Site are a material fact.

#### 16. Assignment

The Practice may assign its rights and duties under these Terms to any party at any time without notice to you.

#### 17. Survival

The provisions of these Terms entitled "Disclaimer – Warranty," "Indemnification," "Limitation of Liability," "Dispute Resolution," "Waiver of Jury Trial and Class Actions," "Law and Jurisdiction" and "General Provisions" will survive the termination of this Agreement.

#### 18. General Provisions

Except as provided in a particular "Legal Notice" on this Site, these Terms, along with the Practice's Privacy Policy, constitute the entire agreement and understanding between you and the Practice with respect to use of the Site, superseding all prior or contemporaneous communications with the Practice.

These Terms are severable, and in the event any provision is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions. A printed version of these Terms shall be admissible in judicial or administrative proceedings based upon or relating to use of the Site to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. The section titles of this Agreement are displayed for convenience only and have no legal effect. Nothing in this Agreement shall be deemed to confer any third-party rights or benefit.

#### 19. Changes to these Terms

The Practice may, at any time and without notice, modify these Terms by revising them on the Site. Your continued use of the Site constitutes your acceptance of any such revisions. You should therefore periodically visit this page to review the current Terms.

#### 20. Health Fusion and Zulty's

The Practice uses health fusion for text message reminders, the system will send a text out 2 days before and a day before if you did not confirm 2 days prior. The practice also uses Zultys for text messaging if that is the patient's primary way of contact.

#### 21. Customer Care contact information

If you have any questions about this Privacy Policy, please contact us by phone 208-733-5117 or email us [office@mfamilypractice.com](mailto:office@mfamilypractice.com) or mail us at

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