

PINNACLECARE TERMS AND CONDITIONS OF ENGAGEMENT

1. Services.

PinnacleCare (sometimes referred to herein as “PCI”) will make available to you the services set forth on the Schedule of Services (collectively, the “Services”) attached to these Terms and Conditions as Addendum A, subject to the terms and conditions contained herein. By accepting Services from PinnacleCare you are giving permission for PinnacleCare to use your provided email and/or mailing address to communicate directly with you about personal health information.

2. Term.

These Terms and Conditions shall remain in force throughout the period of time that you are entitled to engage with PinnacleCare for the provision of services.

3. Confidentiality of Information.

Our policies regarding the confidentiality of certain information are set forth in PCI’s Notice of Privacy Practices, as amended from time to time, with respect to the Services, a copy of which can be found at https://www.pinnaclecare.com/legal/member_privacy/

4. Limitations.

- (a) We are neither (i) an insurance broker, insurance underwriter, insurer, reinsurer, reinsurance intermediary, payor, health maintenance organization or other managed care company, health or employee benefit plan or third party administrator, fiduciary or plan administrator nor (ii) a provider of health care, nor (iii) an agent or representative of (nor otherwise acting on behalf of) any of the foregoing. In addition, no person or entity who provides health care to you in connection with, or as a result of, your engagement, nor any other provider of products, services or treatment to you, is our agent or representative, or is otherwise acting on our behalf.
- (b) You are responsible for providing us with full clinical information and medical history about yourself. All medical and other information must be provided to us in the English language; in no event will we have any liability, obligation or responsibility to translate (or with respect to any translation of) any medical or other information. We will be entitled to rely upon, and assume the accuracy and completeness of, all medical and other information which you, your personal or family physician or specialist, or any other person or entity, provides to us. Our ability to provide the Services to you depends on the accuracy and completeness of all such information.
- (c) In no event will we have any liability, obligation or responsibility (or otherwise be considered) to provide any diagnoses of, or related to, your medical conditions or illnesses, or to provide any related treatment. All such diagnoses and treatment shall be the sole responsibility of the physicians or other health care providers which you may select from time to time.
- (d) We will not be liable, obligated or responsible for (i) the availability, quantity, quality or results of any products, services or treatment received by you, or for any failure to obtain products, services or treatment, (ii) any negligence, error or omission, or malpractice, or any other action or inaction of any person or entity providing products, services or treatment to you, and/or (iii) payment or collection of any charges, claims, bills, fees, costs, expenses or any other amounts incurred by or on behalf of any person in connection with any products services or treatment (all of which are your sole responsibility).
- (e) WE MAKE NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, RELATING TO ANY OF THE PRODUCTS, SERVICES OR TREATMENT PROVIDED TO YOU IN CONNECTION WITH THE SERVICES, AND ALL SUCH PRODUCTS, SERVICES AND TREATMENT ARE PROVIDED “AS IS.” WITHOUT LIMITING THE FOREGOING, WE HEREBY SPECIFICALLY DISCLAIM ALL EXPRESS, STATUTORY AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ANY OTHER WARRANTY ARISING UNDER THE UNIFORM COMMERCIAL CODE OR USAGE OF TRADE OR COURSE OF CONDUCT OR OTHERWISE.
- (f) WE WILL NOT BE LIABLE, OBLIGATED OR RESPONSIBLE TO THE ELIGIBLE MEMBER OR ANY OTHER PERSON FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, LOSSES, COSTS OR EXPENSES OF ANY KIND, HOWEVER CAUSED AND WHETHER BASED IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO LOST PROFITS, COSTS OF PROCUREMENT OF SUBSTITUTE SERVICES, COST OF CAPITAL, AND OTHER LOSS, REGARDLESS OF WHETHER WE KNOW OR HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, LOSSES, COSTS, OR EXPENSES. IF ANY OF THE SERVICES DO NOT CONFORM TO THE STANDARDS OF PERFORMANCE, IF ANY, SET FORTH IN THESE TERMS AND CONDITIONS, OUR SOLE AND EXCLUSIVE LIABILITY SHALL BE LIMITED TO REPERFORMANCE OF SUCH NONCONFORMING SERVICES AT NO ADDITIONAL COST TO YOU. IN NO EVENT WILL OUR LIABILITY TO YOU OR ANY OTHER PERSON, REGARDLESS OF FORM OR THE NUMBER OF ACTIONS, EXCEED THE AMOUNTS RECEIVED BY US FOR THE SERVICES WE PROVIDE TO YOU UNDER THESE TERMS AND CONDITIONS.
- (g) We will not be liable, obligated or responsible for any cessation, interruption or delay in the provision or procurement of any Services due to causes beyond our reasonable control such as, without limitation, fire, flood, earthquake or other natural disaster, act of God, war or armed conflict (whether or not officially declared), strikes, labor difficulties, riot, civil disturbance, accident, disruption of the public markets or the failure of any supply, transportation, telecommunications, power or other essential commodities or services.
- (h) The relationship between you and us is not a joint venture, association, partnership, agency or similar relationship (each, a “Partnering Relationship”), and no liabilities, obligations or responsibilities will be imposed on you or us based on a Partnering Relationship.
- (i) You agree to indemnify and hold harmless PinnacleCare, our employees, agents, officers, directors, stockholders, partners, members, affiliates, successors and assigns, from and against any and all payment obligations resulting from actions, suits, proceedings, investigations, demands, claims, judgments, liabilities, obligations, liens, losses, damages, costs and expenses (including, without limitation, reasonable attorneys’ fees) (collectively, “Losses”) based upon, resulting from, arising out of, or in any way relating to (i) any breach by you of any of these Terms and Conditions, and/or (ii) our provision or procurement of any of the Services hereunder, except to the extent such Losses are directly attributable to our gross negligence or willful misconduct.

5. Ownership Rights.

All trademarks, trade names, copyrighted material and any other intellectual property rights of PinnacleCare will remain, at all times, the exclusive property of PinnacleCare, and you must not appropriate or use such property without our prior written consent.

6. Miscellaneous.

- (a) You may not assign or delegate any of your rights to receive Services or duties under these Terms and Conditions, directly or indirectly, to any person or entity without our prior written consent, and any act in violation of the foregoing will be null and void. Subject to the foregoing, these Terms and Conditions will be binding upon, and will inure to the benefit of, you and us, and your and our respective successors and assigns. Nothing contained in these Terms and Conditions (or other rights, if any, which you may have to receive Services) shall be deemed to confer any rights or benefits upon any third parties.

- (b) These Terms and Conditions may be amended at any time by PinnacleCare in accordance with the terms and conditions of the agreement through which you are receiving Services. The failure of PinnacleCare to enforce, at any time, any of the provisions, conditions or requirements of these Terms and Conditions, or the failure to require, at any time, performance by you of any of the provisions of these Terms and Conditions, will in no way be construed to be a present or future waiver of such provisions, nor in any way affect the ability of PinnacleCare to enforce each and every such provision thereafter. Any and all waivers by PinnacleCare of any provision, condition or requirement of these Terms and Conditions shall only be effective against PinnacleCare if such waiver is in writing signed by an authorized officer of PinnacleCare, and any such written waiver will not constitute a waiver of any future obligation to comply with such provision, condition or requirement.
- (c) The Schedule of Services is an integral part of these Terms and Conditions and is incorporated by reference. These Terms and Conditions constitute the entire agreement between you and us with respect to the Services, and supersede all previous and contemporaneous agreements and understandings, whether oral or written, with respect to the Services. If, for any reason, a court of competent jurisdiction finds any provision of these Terms and Conditions, or portion thereof, to be invalid or unenforceable, such provision will be deemed modified with retroactive effect to render such provision valid and enforceable to the maximum extent permissible so as to effect our intent, and the remainder of these Terms and Conditions will continue in full force and effect.
- (d) The laws of the State of Maryland, USA (irrespective of its choice of law principles) govern these Terms and Conditions, including their validity, construction, interpretation and enforcement. For resolution of all matters involving the provision of Services or these Terms and Conditions, you irrevocably (i) consent and agree to (A) the exclusive jurisdiction of the United States District Court for the Northern District of Maryland, and to the service of process for it and on its behalf, if a basis exists for federal jurisdiction, or (B) the exclusive jurisdiction of the Circuit Court of Maryland for Baltimore County, and to the service of process for it and on its behalf, if a basis does not exist for federal jurisdiction, and (ii) waive any right to object to the maintenance of a suit in any such court on the basis of improper venue or inconvenience of forum. EACH PARTY HEREBY WAIVES ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATING TO SUCH MATTERS.
- (e) All notices, communications and inquiries by you to us regarding these Terms and Conditions must be made in writing and addressed as follows, and will be effective (i) when delivered by hand or confirmed facsimile transmission, (ii) one day after delivery by receipted overnight delivery, or (iii) four days after being mailed by certified or registered mail, return receipt requested, with postage prepaid:
PinnacleCare, LLC, 250 West Pratt Street, Suite 1100, Baltimore, Maryland 21201 | Fax No.: 410/244-7170
- (f) Communications and inquires by us to you regarding these Terms and Conditions may be made in writing and addressed to you and will be effective (i) when delivered by hand or confirmed facsimile transmission, (ii) one day after delivery by receipted overnight delivery, or (iii) four days after being mailed by certified or registered mail, return receipt requested, with postage prepaid.
- (g) By agreeing to these Terms and Conditions you understand that you are engaging PinnacleCare to act on your behalf and you specifically agree and direct any medical providers engaged to provide the Services to share their records, opinions and assessments, which will include your health information, directly with PinnacleCare.

ADDENDUM A

PINNACLECARE SCHEDULE OF SERVICES

In the event a person entitled to Services is diagnosed with a “Serious Health Issue” (as defined by PinnacleCare), PinnacleCare may provide the following to such person:

Advisory Support Services which includes but is not limited to medical record collection, review and transfer; medical research report; physician referral report; decision support; appointment facilitation; and virtual consultation;

Case Review which includes but is not limited to PinnacleCare gathering information pertinent to the applicable diagnosis, including medical record collection, if necessary, and a review of the information to determine if additional treatment options should be considered;

Benefits Navigation which includes but is not limited to education on the benefits available (as represented to PinnacleCare by you and/or your benefit provider), as well as how and when to access such benefits.

In the event PCI determines that the condition is not a Serious Health Issue, PCI will inform such person of other available options outside of PCI. This would include:

- Education via telephone on options for their condition or situation.
- Sending information on helpful websites and books.