

# Telehealth Consent Agreement

Spine and Pain Institute of New England, PC (the "Practice") is a Massachusetts professional corporation located at 99 Longwater Circle, Suite 101, Norwell, Massachusetts 02061.

**IMPORTANT: TELEHEALTH SERVICES, SITES, AND SOFTWARE ARE NOT FOR EMERGENCIES.  
IF YOU HAVE AN EMERGENCY, CALL 911 OR YOUR LOCAL EMERGENCY SERVICE.**

Please read this Telehealth Consent Agreement (the "Agreement") carefully. This Agreement applies to any connection to, download or use of a telehealth service, site, or software provided by the Practice, any remote interaction with any employee, medical staff, consultant, or other Practice personnel, and doing so constitutes acceptance of this Agreement. Any permission to use any telehealth service, site, or software provided by the Practice is valid only with the condition that you accept all of the terms contained in this Agreement. By connecting to, downloading or using a telehealth service, site, or software provided by the Practice, conducting any remote interaction with any employee, medical staff, consultant, or other Practice personnel, or using equipment that operates or contains such a telehealth service, site, or software, indicates your acceptance of this agreement, and binds you and your minor children and any business entity that you represent (collectively, "You" or "Customer") to this Agreement.

If you are not able to use the Practice Telehealth video conferencing platform for some reason and request to use an outside videoconferencing platform like Facetime or Skype instead, you acknowledge and understand that despite recommendations that encryption software be used as a security mechanism for electronic communications, it is possible that communications with the Physician or the Physician's staff using these Videoconferencing services may not be encrypted. Despite this, you agree to communicate with the Physician or the Physician's staff using these Videoconferencing Services with a full understanding of the risks related to encryption and HIPAA compliance.

If you do not agree to all of the terms of this Agreement, then Practice is unwilling to provide any services or license the software to you. In such case do not download, install or use a telehealth service, site, or software to communicate with Practice.

1. Practice provides certain on-line, health-related information and is a provider of technology that enables access to informational and medical services that are provided by the physicians and medical staff who are either Practice employees, or who have independently contracted to participate in the telehealth services of Practice, which may include but are not limited to patient and physician access to electronic medical and health record storage and retrieval, and patient-physician communications by secure audio, data, and/or video where available (the "Services").
2. Telehealth services, sites, and software are not for emergencies. If you have an emergency, call 911 or your local emergency service. Telehealth services, sites, and software products are not authorized for use in critical safety or other applications or situations where any failure may reasonably be anticipated to result in bodily injury, loss of life, or catastrophic damage to property. If Customer uses or sells the telehealth services, sites, or software products for use in any such applications or situation, Customer acknowledges that it is at Customer's sole risk. Customer will indemnify, defend and hold Practice and its suppliers harmless from and against any and all

liabilities and costs arising out of or in connection with such sale or use. Additionally, Customer understands that if Customer is not physically located in Massachusetts, Practice's physicians may not be able to render medical advice unless Practice's physicians have a license to practice medicine in the jurisdiction where customer is located. In instances where Customer is located outside of Massachusetts, the telehealth interaction may consist of a meet and greet, introduction, or general information sharing, but may not include a diagnosis or treatment plan.

3. Confidentiality. You have the right to be assured that all existing confidentiality protections apply to your telehealth consultation and related patient information. This includes protections assured through existing laws regarding patient access to medical information and copies of the record of your consultation.

4. Express Consent. By entering into this Agreement, you understand that if medical advice is provided, it may be delayed, distorted or inaccurate due to technology-related issues such as poor connectivity or image or sound quality. Additionally, your express consent is required to release any healthcare information relating to testing, diagnosis, and/or treatment for HIV (Aids virus), sexually transmitted diseases, psychiatric disorders/mental health, and/or alcohol abuse. By entering into this Agreement, you specifically authorize to release all healthcare information related to such testing, diagnosis, and/or treatment of the above conditions. The consent of the specific above-mentioned conditions will expire 60 days from the date signed below.

5. Patient Identifiable Images. Dissemination of any patient-identifiable images or information from telehealth interaction to researchers or other entities shall not occur without the patient or guardian's consent.

6. Trainees or Support Personnel – By entering into this Agreement, you understand that trainees or support personnel may be present during the telehealth consultation.

7. You represent that you are of legal age to agree to the terms and conditions set forth in these Terms and Conditions. Some Services, including, without limitation, access to the informational or diagnostic consultations, are not intended to be used by, and are not directed to, anyone less than 18 years of age. If you register for, enroll for, purchase and/or engage in informational or diagnostic consultations, you represent you are at least 18 years of age. You represent that if you are acting on behalf of an entity, you have the authority to bind such entity.

8. You also represent that you are not a person barred from enrolling for and/or receiving Services under the laws of the United States or other applicable jurisdictions in which you may be located. Recognizing the global nature of the Internet, it may be possible to access and/or use the Site and/or the Services outside of the United States. In the event of such access and/or use, you agree to comply with all local rules regarding online conduct and transmission of information, including, without limitation, all applicable laws regarding the transmission of technical data exported from the United States or any other jurisdiction, and you acknowledge that Practice makes no representation or warranty that the Site, any of the Services, or any information on the Site or transmitted via a Service is lawful in any jurisdiction outside the United States.

9. Practice's technology is the intellectual property of Practice, is protected by U.S. and international copyright laws, and may be covered by U.S Patents as well as additional international patents, or pending U.S. or international patent applications owned by Practice or its affiliates.

10. Conditioned upon compliance with the terms and conditions of this Agreement, Practice grants to Customer a nonexclusive and nontransferable license to use for Customer's personal or internal business purposes the Software and Documentation for which Customer has paid the required license, transaction, or subscription fees. "Documentation" means information fixed in a tangible medium (whether contained in manuals, training materials, specifications or otherwise) specifically pertaining to the Software and made available by Practice with the Software in any manner (including on a data disk or online). Any unauthorized use of the Software, sites or services shall be a violation of the terms of this license and Agreement.

11. Billing. Your Physician shall have the right to decide whether and how much to charge you in connection with use of the Software. If Physician, in his or her discretion, chooses to bill you or others for services using or relating to the Software, including but not limited to a certain fee per call or session, concierge or subscription fee, Physician shall be fully responsible for such billing and shall receive all corresponding revenue. Practice makes no guarantee of physician-patient interaction being covered by any third-party payor.

12. Refunds. If an electronic or other remote connection is disconnected for any technical reason or the signal becomes unintelligible, and the connection is not completed within a reasonable time, then You will not be charged.

13. NO AGENCY RELATIONSHIP IS CREATED BY THE SOFTWARE NOR BY PHYSICIAN'S USE OF THE SOFTWARE, AND PRACTICE HAS NO RESPONSIBILITY FOR THE EXISTENCE, CONTENT OR ANY OTHER CHARACTERISTICS OF SUCH CONNECTIONS OR CONVERSATIONS BETWEEN PHYSICIAN AND A PATIENT OR ANY OTHER PERSON, REGARDLESS OF WHETHER THE SOFTWARE IS USED TO MAKE SUCH CONNECTION OR FACILITATE SUCH CONVERSATION.

14. Use of the Software may generate data or use charges from an internet service, cellular telephone network, or other telecommunications provider, and Physician is not responsible for such charges. PRACTICE HAS NO LIABILITY FOR ANY DATA OR USE CHARGES FROM ANY INTERNET SERVICE, CELLULAR TELEPHONE NETWORK, OR OTHER TELECOMMUNICATIONS PROVIDER, IN CONNECTION WITH THE SOFTWARE OR USE OF THE SOFTWARE.

15. The design of the Software may be changed by Practice without notice prior to its general availability, and Practice does not guarantee that compatibility of your system can or will be maintained with current or subsequent versions of Software or any other software. Practice reserves the right to change or withdraw any Software at any time.

#### 16. Limited Warranty

16.1. Practice warrants for a period of one (1) year following shipment or first use of the Licensed Software by you, that the Licensed Software substantially conforms to its published specification.

16.2. Except for the foregoing, the Product and Software are provided "as is." This limited warranty extends only to the Customer who is the original licensee. Customer's sole and exclusive remedy

and the entire liability of Practice and its suppliers and licensors under this limited warranty will be, at Practice's option, repair, replacement, or refund of the Product if reported (or returned upon request by the Practice) to Practice. In no event does Practice warrant that the Software is error-free or that Customer will be able to operate the Software without problems or interruptions. In addition, due to the continual development of new techniques for intruding upon and attacking networks, Practice does not warrant that the Software or any equipment, system or network on which the Software is used will be free of vulnerability to intrusion or attack.

16.3. Restrictions. This warranty does not apply if the Software, Product or any other equipment upon which the Software is authorized to be used (a) has been altered, except by Practice or its authorized representative, (b) has not been installed, operated, repaired, or maintained in accordance with instructions supplied by Practice, (c) has been subjected to abnormal physical or electrical stress, misuse, negligence, or accident; or (d) is licensed, for beta, evaluation, testing or demonstration purposes. This warranty also does not apply to (e) any temporary Software modules; (f) any Software for which Practice does not receive a license fee.

16.4. DISCLAIMER OF WARRANTY. EXCEPT AS SPECIFIED IN THIS WARRANTY, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, SATISFACTORY QUALITY, NON-INTERFERENCE, ACCURACY OF INFORMATIONAL CONTENT, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW AND ARE EXPRESSLY DISCLAIMED BY PRACTICE, ITS SUPPLIERS AND LICENSORS. TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THIS WARRANTY GIVES CUSTOMER SPECIFIC LEGAL RIGHTS, AND CUSTOMER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM JURISDICTION TO JURISDICTION.

16.5. This disclaimer and exclusion shall apply even if the express warranty set forth above fails of its essential purpose.

17. General Limitations. This is a license, not a transfer of title, to the Software and Documentation, and Practice and/or its licensor(s), retain(s) ownership of all copies of the Software and Documentation and intellectual property rights of the Product and Software. Customer acknowledges that the Products, Software and Documentation contain intellectual property rights (such as international and united states trade secrets, copyrights, patents, and patents pending) of the Practice, its suppliers or licensors including but not limited to the specific internal design and structure of individual programs and associated interface information. Accordingly, except as otherwise expressly provided under this Agreement, Customer shall have no right and Customer specifically agrees not to: (i) transfer, assign or sublicense its license rights to any other person or

entity, or use the Software on unauthorized or secondhand Practice equipment, and Customer acknowledges that any attempted transfer, assignment, sublicense or use shall be void; (ii) make error corrections to or otherwise modify or adapt the Product, Software or create derivative works based upon the Software, or permit third parties to do the same; (iii) reverse engineer or decompile, decrypt, disassemble or otherwise reduce the Software to human-readable form, except to the extent otherwise expressly permitted under applicable law notwithstanding this restriction; (iv) use or permit the Software to be used to perform services for third parties, whether on a service bureau or time sharing basis or otherwise, without the express written authorization of Practice; or (v) disclose, provide, or otherwise make available trade secrets contained within the Products, Software and Documentation in any form to any third party without the prior written consent of Practice. Customer shall implement reasonable security measures to protect such trade secrets. To the extent required by law, and at Customer's written request, Practice shall provide Customer with the interface information needed to achieve interoperability between the Software and another independently created program, on payment of Practice's applicable fee, if any. Customer shall observe strict obligations of confidentiality with respect to such information and shall use such information in compliance with any applicable terms and conditions upon which Practice makes such information available.

17.1. Unless otherwise expressly specified all taxes and duties relating to this Agreement, the Products, or Software are excluded and shall be Customer's responsibility.

17.2. For purposes of this Agreement, "Licensed Software" shall include (and the terms and conditions of this Agreement shall apply to) computer programs, including firmware, as provided to Customer by Practice or an authorized Practice reseller, and any upgrades, updates, bug fixes or modified versions thereto (collectively, "Upgrades") or backup copies of the Software licensed or provided to Customer by Practice or an authorized Practice reseller. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE MAKING AND USE OF ADDITIONAL COPIES IS LIMITED TO NECESSARY BACKUP PURPOSES ONLY.

18. Proprietary Notices. Customer agrees to maintain and reproduce all copyright and other proprietary notices on all copies, in any form, of the Software in the same form and manner that such copyright and other proprietary notices are included on the Software. Except as expressly authorized in this Agreement, Customer shall not make any copies or duplicates of any Software without the prior written permission of Practice.

19. Term and Termination. This Agreement and the license granted herein shall remain effective until terminated as specified in the related order or under this section. Customer may terminate this Agreement and the license any time by destroying all copies of Software and any Documentation. Customer's rights under this Agreement will terminate immediately without notice from Health System if Customer fails to comply with any provision of this Agreement. Upon termination, Customer shall destroy all copies of Software and Documentation in its possession or control. All confidentiality obligations of Customer and all limitations of liability and disclaimers and restrictions of warranty shall survive termination of this Agreement. Any other clauses which by their terms are required for the enforcement of this Agreement shall survive termination.

20. Export. Products, Software and Documentation, including technical data, may be subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Customer agrees to comply strictly

with all such regulations and acknowledges that it has the responsibility to obtain licenses to export, re-export, or import Products, Software and Documentation.

21. REGARDLESS WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL PRACTICE OR ITS SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT, OR LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE SOFTWARE OR OTHERWISE AND EVEN IF PRACTICE OR ITS SUPPLIERS OR LICENSORS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In no event shall Practice's or its suppliers' or licensors' liability to Customer, whether in contract, tort (including negligence), breach of warranty, or otherwise, exceed the price paid by Customer for the Software that gave rise to the claim or if the Software is part of another Practice Product, the price paid for such other Practice Product. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU. Customer agrees that the limitations of liability and disclaimers set forth herein will apply regardless of whether Customer has accepted the Software or any other product or service delivered by Practice. Customer acknowledges and agrees that Practice has set its prices to end users and to Practice's authorized resellers and entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that the same reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that the same form an essential basis of the bargain between the parties. The validity, construction and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of Massachusetts, USA, without reference to or application of choice of law rules or principles. The exclusive venue for any dispute arising under this Agreement shall be within the competent courts in the State of Massachusetts, USA. The United Nations Convention on the International Sale of Goods shall not apply. If any portion hereof is found to be void or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect. Except as expressly provided herein, this Agreement constitutes the entire agreement between the parties with respect to the terms herein and Documentation and supersedes any conflicting or additional terms contained in any purchase order or elsewhere, all of which terms are excluded. This Agreement has been written in the English language, and the parties agree that the English version will govern.

22. Infringement Indemnification. (a) Practice will defend or settle, at its expense, any action brought against Customer based upon the claim that the Software or Product, if used within the scope of the License granted under this Agreement, directly infringe a registered United States, European Union or Commonwealth patent or copyright; provided, however, that: (i) Customer shall notify Practice promptly in writing of any such claim; (ii) Customer shall not enter into any settlement or compromise any claim without Practice's prior written consent; (iii) Health System shall have sole control of any such action and settlement negotiations; and (iv) Customer shall provide Practice with information and assistance, at Practice's request, necessary to settle or defend such claim. Practice agrees to pay all damages and costs finally awarded against Customer attributable to such claim. The foregoing states the sole liability of Practice and the exclusive remedy of Customer for any infringement of intellectual property rights by the

Product or any other items provided by Practice hereunder. (b) If the Product or Software becomes, or in the opinion of Practice may become, the subject of a claim of infringement of any third party right, Practice may, at its option and in its discretion: i) procure for Customer the right to use the Product free of any liability; (ii) replace or modify the Product to make it noninfringing; or (iii) repurchase the applicable licenses or Products. (c) Customer will defend or settle, at its expense, any action brought against Practice based upon the claim that any modifications to the Product or combination of the Product with products infringes or violates any third party right; provided, however, that: (i) Practice shall notify Customer promptly in writing of any such claim; (ii) Practice shall not enter into any settlement or compromise any such claim without Customer's prior written consent; (iii) Customer shall have sole control of any such action and settlement negotiations; and (iv) Practice shall provide Customer with information and assistance, at Customer's request and expense, necessary to settle or defend such claim. Customer agrees to pay all damages and costs finally awarded against Practice attributable to such claim. (d) Notwithstanding Subsection (a) above, Practice assumes no liability hereunder for, and shall have no obligation to defend Customer or to pay costs, damages or attorney's fees for, any claim based upon any modifications to the Product not provided by Practice or combination of the Product with other products.