

PRIVACY POLICY - NIGHTWARE WEBSITE

Date of Last Revision: March 26, 2023

This Privacy Policy (Privacy Policy) explains how NightWare Inc, a Delaware corporation with a place of business in Hopkins, MN (and any of its subsidiaries or affiliates) (“NightWare” or “We”) collects information, and the types of information collected, from users (hereinafter referred to as “user”, “you”, “your”) of (a) any or all NightWare’s websites, web pages, and landing pages, including, without limitation, the website with the uniform resource locator (URL) address www.nightware.com, and all other websites, web pages and landing pages owned or operated by or on behalf of NightWare, including without limitation, those that relate in any way to the NightWare Digital Therapeutic Device including the NightWare iPhone, and the NightWare Apple Watch SE, (collectively “the NightWare Device”) (all of which are hereinafter referred to as “NightWare’s Websites”) and/or (b) the NightWare Mobile App and all other mobile applications owned and/or operated by or on the behalf of NightWare, including without limitation those that relate in any way to the NightWare Device (all of which are hereinafter referred to as “NightWare’s Apps”). In addition to explaining how NightWare collects information about you, this Privacy Policy also describes how NightWare stores, uses, protects, and discloses information collected on NightWare’s Websites and/or Apps and/or the NightWare Device, as well as from the user’s physician.

Before accessing, visiting and/or using the NightWare Websites and/or Apps and/or providing NightWare with any information described in this Privacy Policy, you acknowledge that you have read, understood, and agreed to all of the terms and conditions set forth in this Privacy Policy. NightWare reserves the right to at any time in its sole discretion to modify or change this policy.

The definitions and any defined terms contained in the NightWare Website and the NightWare App Terms of Use (“Terms of Use”) are incorporated herein by reference.

HOW NIGHTWARE COLLECTS INFORMATION ABOUT YOU

For the reasons set forth below, NightWare may collect information about you (i)including identifiable and non-identifiable data) through your access to and/or use of NightWare’s Websites and/or Apps, including any information you input into the NightWare Websites, including on-line chat sessions, (ii)information you disclose to a NightWare employee, (iii) information you disclose to your physician and/or other health care provider, and/or (iv) information input by your physician and/or other healthcare provider through the NightWare physician portal. In addition, NightWare may also collect information about you (a) through third party Social Networking Software (“SNS”), (b) through third parties that provide search and/or electronic communications analytics, and (c) through other third parties. Unless we request it, we suggest you do not disclose any sensitive information about yourself on or through the NightWare Websites.

When you use NightWare’s Websites and/or Apps, as well as the NightWare Device, NightWare collects information about your use. NightWare may place “cookies” and/or other types of files and/or software code on the computer or other device that you use to access NightWare’s Websites and/or Apps. NightWare may employ technologies including web beacons and tracking pixels to reference information about the user within various on-line platforms such as Facebook, LinkedIn, or Google. If you so desire, you may be able to adjust settings on your web browser to limit the type of cookies allowed.

If you acquire and use the NightWare Device and the NightWare App, NightWare may collect personal information including Protected Health Information (“PHI”) and other information about you through your use of the NightWare App. NightWare may collect PHI and other information about you, if you communicate with NightWare employees directly as more fully described in the Terms of Use, and/or from your health care providers through electronic, oral, or written communications, including information put into the NightWare Physician Portal by your

physician or their staff. The NightWare App accesses the software in your NightWare Apple Watch and NightWare iPhone for the operation of the NightWare Device and may save that data.

THE TYPE OF INFORMATION NIGHTWARE COLLECTS

1. Protected Health Information (PHI)

NightWare may collect, create, receive, maintain, store, transmit, disclose and/or use PHI about you. Your PHI may include, but it not limited to, the following: (i) identity of physicians and/or health care providers that have examined and/or treated you. (ii) diagnostic and symptom information about you, including without limitation post-traumatic stress disorder and other medical conditions, (iii) prescriptions, treatment plans, and treatment protocols applicable to your diagnosis and/or medical conditions, (iv) information about your use of the NightWare Device and the NightWare Mobile App, (v) information you input into the NightWare Websites, (vi) information you disclose to a NightWare employee, (vii) information you disclose to your physician or health care provider about your symptoms and treatment progress before, during and after your use of the NightWare Device, (ix) information input by your physician through the NightWare Physician Portal, and/or (x) information about your treatment experience and outcomes during and after use of the NightWare Device. In most instances, when NightWare creates, receives, collects, maintains, stores, transmits, discloses, and/or uses your PHI, We are doing so for the purposes of your treatment.

2. Personal Information

Personal Information, including PHI, about you that NightWare collects and stores may include your full name, email addresses, physical address, age, date of birth, password, phone numbers, health insurance plan (with related information including social security number and insurance identification numbers) NightWare Device identifiers, Portal Patient Identifiers, and other information you provide when using the NightWare Websites and/or NightWare App, communicating with NightWare employees, and/or that you provide your physician which they communicate to NightWare. NightWare may also collect usernames, gender, geographic information, likes, interests, and contact information for and links to other websites and/or mobile applications that you have searched for, accessed, visited or used.

3. Payment Information

NightWare or a third-party authorized payment processor may collect and store financial information about you to facilitate payment transactions. Such information may include without limitation, (i) credit card, debit, and other financial institution information, (ii) credit reporting information, and (iii) identifying information.

4. NightWare Device User Support Information

NightWare may collect and store (i) the contact information you provide to our support personnel including NightWare employees, (ii) information about your use of the NightWare Websites and/or NightWare App, including the NightWare iPhone and NightWare Apple Watch, (iii) identification information such as a user ID, NightWare Device ID, (iv) any of the other types of information described above in this Privacy Policy, and (v) notes of and/or actual recordings or copies of communications between you and NightWare employees.

5. Text Messaging and Similar Notifications

NightWare may collect and store the information you provide and may send you notifications directly to your NightWare iPhone. The sending of text messages or direct messages may be handled through a third-party service provider. NightWare may provide push notifications to your NightWare iPhone to provide information about the NightWare Device, the NightWare Mobile App, NightWare Products and Services, and reminders or communications about your care or use of the NightWare Device.

6. Technical and Usage Information From Your Devices

NightWare may collect and store information about your mobile device or computer system, including MAC address, IP address, and device ID. NightWare may also collect usage statistics about your interactions with NightWare's Websites and/or Apps. Cookies are small text files that NightWare may place on your computer which may be linked to your user ID number. You are always free to decline our cookies if your browser permits, but some parts of our Site may not work properly if you do. Other parties, including Google, Facebook, and LinkedIn, may or do collect Personal Information about your online activities over time and across different websites and services by using cookies and other tracking information. If you access their websites through the NightWare Website or access the NightWare Website through their services, these companies may use this information to track you in this manner. To find out more about cookies, visit www.aboutcookies.org.

7. Other Sources

NightWare may collect or receive information from other sources including (i) other users of the NightWare Websites and/or Apps who upload contacts and (ii) third party information providers. This information may be combined with other information about you that we collect.

WHERE NIGHTWARE STORES INFORMATION ABOUT YOU

All or some portion of your personal information, including PHI, and other information about you as described above may be stored the NightWare Device, your computer, or other device you use to access NightWare's Websites, the computers or devices that physicians or other health care providers use to access the NightWare Physician Portal, NightWare's computers containing electronic storage, and computer servers owned and/or operated by NightWare, including without limitation, "cloud" storage providers. The NightWare Website is controlled and operated by us from the United States and is not intended to subject us to the laws or jurisdiction of any state, country, or territory other than that of the United States. NightWare will not store or process your personal information outside the United States.

HOW NIGHTWARE USES INFORMATION ABOUT YOU

NightWare uses your PHI and other information collected about you as described above for a variety of purposes as permitted by, required by, any/or in accordance with applicable law, including, but not limited to:

1. In connection with your physician's treatment of you or to provide physicians and or other health care providers with information about the NightWare Device, the NightWare Physician Portal, and reports or data generated about you based on your use of the NightWare Device.
2. To provide information, to complete your requests about how you may acquire, use, or replace the NightWare Device, and to answer questions about the NightWare Device, the NightWare App, the NightWare iPhone, the NightWare Apple Watch, or any other NightWare product or service offered or sold by NightWare.
3. To confirm a prescription from your physician so that you may acquire the NightWare Device or obtain information from you about your medical condition and treatments.
4. To manage operation of, make improvements to, or upgrade the NightWare Device and the NightWare App.
5. In a de-identified format for clinical research or an identifiable format if authorized by you for clinical research, or in a manner and to the extent not prohibited by applicable law;
6. For quality assessment and improvement of the NightWare Device, product and portal development, maintenance and/or evaluation, or for customer service trending and training and longitudinal efficacy studies;
7. For treatment adherence, patient retention analysis, or evaluation of psycho-social trends in patient behavior;
8. For treatment, payment, or healthcare operation purposes as provided in HIPAA;
9. To evaluate your candidacy for any jobs you apply for, and
10. To enforce this Privacy Policy, our Terms of Use, protect our rights and property, and other legal terms and agreements, and for any other purpose not prohibited by applicable law.

NightWare will not sell, share, or rent your Personal Information and other information we acquire about you to others in ways that are not covered in this Privacy Policy.

HOW NIGHTWARE DISCLOSES INFORMATION ABOUT YOU

NightWare may ask for your consent to collect, use, or share your Personal Information when we are required to do so by law. NightWare may disclose your PHI and/or other information about you as described above as permitted by, required by, and/or in accordance with applicable law, including without limitation, (a) to your physician or health care provider, (b) to persons or entities authorized by you in writing, such as a health insurer or guardian, and/or (c) to any affiliate or subsidiary of NightWare or to third parties who perform services on our behalf, including providers who host our web servers and related connected technologies. NightWare may aggregate and/or disclose PHI, after it has been de-identified, to third parties to the extent not prohibited by and/or in accordance with applicable law. **NightWare does not sell or share your Personal Information to people or non-affiliated entities for their marketing purposes. NightWare will never sell your PHI to third parties for marketing purposes without your written consent.**

NightWare may disclose or report information about you as permitted by, required by, and/or in accordance with applicable law: (i) if we have a good faith belief that we are required to disclose the information in response to a legal process; (ii) to satisfy applicable laws, (iii) if we believe that NightWare's Websites or Apps are being used to commit a crime, including to report such activity or exchange information with other companies and organizations for the purposes of fraud protection and credit risk reduction, (iv) if we have a good faith belief that there is an emergency that poses a threat to the health or safety of a person (including You) or the general public, and/or (v) in order to protect the rights or property of NightWare. If NightWare sells all or a portion of its business, we may transfer all of your information that we collect as described above, including your PHI and other information about you to a successor organization as permitted by law.

HOW NIGHTWARE PROTECTS INFORMATION ABOUT YOU

NightWare protects personal information it has collected about you, including PHI, by using industry standard security precautions against loss and unauthorized access, destruction, use, modification or disclosure of that information. NightWare complies with HIPAA privacy and security requirements including implementing technical, physical and administrative safeguards applicable to NightWare as a medical device provider. We are required to apply reasonable appropriate measures to safeguard the confidentiality, integrity and availability of PHI we use, maintain, store, create and/or disclose as part of the services we provide.

Even though NightWare takes precautions to maintain the confidentiality of your information, any information you or your physician provides us by electronic means may not be secure and may be susceptible to third party interception. As a result, you understand and agree that you transmit information to us at your own risk. Please refer to the Terms of Use warranty disclaimer and limitation of liability provisions. If you have reason to believe that your interaction with us is no longer secure, please immediately notify NightWare.

DO NOT TRACK DISCLOSURES

The internet browsers that you use to visit the NightWare Websites may provide certain "Do Not Track" capabilities. Generally, browsers that have these features send a signal to websites that inform the site that you do not wish for the site to track you. Currently we do not track your or any other person's Personal Information over time and across third party websites.

PROCESS FOR REVIEWING AND REQUESTING CHANGES TO PHI ABOUT YOU THAT NIGHTWARE STORES

If you are merely a visitor to NightWare's Websites and you do not input any personal information, including PHI about yourself, then NightWare does not intentionally collect or store any personal information or PHI about you. If you do input personal information, including PHI, about yourself in any of NightWare's Websites or if you acquire

and use the NightWare Device and you wish to review and/or request changes to any of your PHI that is collected by NightWare, or to receive a copy of PHI that NightWare is holding about you, you may contact NightWare to make this request. When you make a request, we may require that you provide information and follow procedures so that we can verify the request and your identity before responding to it. The contact information is as follows:

NightWare Support: Attention Privacy Officer 8900 Excelsior Boulevard, Hopkins, MN 55343

OR Email SUPPORT@NIGHTWARE.COM

YOUR WRITTEN AUTHORIZATION RIGHTS

Certain uses of your PHI and any other information about you may require your specific written authorization, which you agree may be effectuated by the use of an electronic signature to the fullest extent not prohibited by applicable law. If you change your mind after authorizing such use or disclosure, you may submit a written revocation of the authorization. However, your decision to revoke the authorization will not affect or undo any use or disclosure of information that occurred before you notified us of your decision to revoke your authorization.

RETENTION

Except to the extent prohibited by law, and subject to this Privacy Policy, we will retain and use your Personal Information for as long as it is needed to provide you with any products, services, communications, news you have requested, or access to the NightWare Website, to document our business relationship with you, and as necessary to comply with our legal obligations, resolve disputes, and enforce our agreements.

NOTICE OF CHANGES OR MODIFICATIONS TO THE NIGHTWARE PRIVACY POLICY

NightWare may make changes or modifications to this Privacy Policy from time to time. In some cases, NightWare may, but is not required to, send you notice of such modifications with a request for your agreement. Alternately you will be notified of modification or changes to the Privacy Policy through a change in the Date of Last Revision at the top of the first page of the Privacy Policy. By continuing to use the NightWare Websites and/or Mobile App, the NightWare Device and the NightWare services after the Date of the Last Revision, you agree to the revised Privacy Policy with all such modifications and that such revised Privacy Policy shall supersede and replace any prior version applicable to your prior use.

CHILDREN

We do not knowingly collect or store any Personal Information from children except as permitted by applicable law. If you are under 18 and have posted content or information on the NightWare Website or social media pages, you or your parent/guardian may ask us to remove content or information that you have posted by contacting us by email or postal mail at the addresses provided below.

CONCERNS

If you believe NightWare has not adhered to this Privacy Policy or if you have any questions or concerns about our privacy practices, please contact us and we will use reasonable efforts to remedy any issue.