

NOTICE OF PRIVACY PRACTICES

THIS NOTICE OF PRIVACY PRACTICES APPLIES TO U.S. CUSTOMERS OF NIGHTWARE, INC. THIS NOTICE DESCRIBES HOW YOUR PROTECTED HEALTH INFORMATION MAY BE USED AND DISCLOSED BY NIGHTWARE INC, AND YOUR RIGHTS REGARDING SUCH INFORMATION. PLEASE REVIEW IT CAREFULLY.

This **Notice of Privacy Practices ("Notice")** is provided to you pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act and regulations implemented thereunder (collectively, "HIPAA"), and explains how NightWare, Inc. handles **Protected Health Information**, as further defined below, created or received by NightWare, Inc. ("NightWare"). To understand how NightWare collects information about you, including PHI, please see NightWare's Privacy Policy at www.NightWare.com/privacy-and-compliance/.

NightWare is committed to maintaining the privacy of your Protected Health Information. NightWare will only use or disclose (share) your Protected Health Information as described in this Notice. You will be asked to sign an acknowledgement that you received this Notice.

This Notice does not apply to personal information collected from NightWare websites that do not link to this Notice, to individuals accessing NightWare websites from countries outside the US, or to third-party websites to which NightWare websites may link.

Definition of Protected Health Information

Protected Health Information ("PHI") means information that identifies you or could reasonably be used to identify you and which is submitted to and/or collected by NightWare and maintained by NightWare in an accessible form, whether oral, electronic, or paper. Examples of PHI include, but are not limited to:

- Information about your diagnosis/disease/treatment with NightWare products or services
- Information about NightWare products or services provided to you
- Demographic and personal information

NIGHTWARE USES AND DISCLOSURES OF PHI

Treatment, Payment, or Health Care Operations

NightWare typically uses or shares your PHI in the following ways:

Treatment: NightWare may share PHI with third parties for all treatment related purposes. For example, NightWare may communicate through the NightWare Physician Portal, or by other secure methods, with your treating physicians or other health care providers involved in your care about product orders or health care services.

Payment: NightWare may share your PHI to bill and obtain payment from you, health plans, or other entities, including for example, federal health care programs.

Health Care Operations: NightWare may utilize and share your PHI to run its business, improve your treatment and contact you when necessary. For example, NightWare may use your PHI to conduct quality or compliance audits, or to review the quality of NightWare products and services.

OTHER USES AND DISCLOSURES FOR WHICH YOUR AUTHORIZATION IS NOT REQUIRED

NightWare may use and disclose your PHI without your written authorization under the following circumstances:

Disclosures to Individuals Involved in Your Care or Payment for Your Care : NightWare may disclose your PHI, your treatment progress, or other health information to your care provider or health insurance plan.

Disclosures to Business Associates

Some services are provided by NightWare through contracts with other companies (“Business Associates”). NightWare may share your PHI with Business Associates (as defined under HIPAA), such as a billing company, who help NightWare with its business operations. All NightWare Business Associates must protect the privacy and security of your PHI just as NightWare does.

Disclosures Allowed or Required by Law

- **Coroners, Medical Examiners or Funeral Directors:** NightWare may disclose your PHI as needed to such persons for them to do their jobs.
- **Corporate Change:** In the event of a corporate change resulting from a sale to or merger with another entity, or in the event of a sale of assets or bankruptcy, NightWare may transfer your PHI to the new party in control or the entity acquiring assets.
- **Disaster Relief:** NightWare may need to share your location/general location for the purpose of notifying your family, friends or agencies chartered by law to assist in disaster relief efforts.
- **Regulatory Agencies:** NightWare may disclose health information, including PHI, to the Food and Drug Administration (FDA) to enable product changes, recalls, alerts, repairs or replacements as required by law, or to support audits or other regulatory examinations.
- **Judicial and Administrative Proceedings:** NightWare may disclose your PHI if required to do so by federal, state, or local law; if ordered by a court or by another properly authorized body; or if you put your PHI at issue in litigation.
- **Law Enforcement:** NightWare may disclose your PHI to law enforcement officials to comply with court orders, subpoenas, or warrants or certain wound reporting obligations. If you are an inmate or are detained by a law enforcement officer, NightWare will disclose your PHI to prison or law enforcement officials only as permitted by law.
- **Private or Public Safety:** NightWare may disclose your PHI if NightWare has a good faith belief that such action is appropriate and necessary to protect and defend the rights of NightWare, or to protect the safety of NightWare Customers and the general public.
- **Public Health and Safety:** NightWare may disclose your PHI to authorized government health officials to carry out public health activities, including, for example: reporting diseases/population health; reporting suspected abuse, neglect or domestic violence; to avoid a serious threat to public health or safety; monitoring product recalls; or reporting information for safety and quality purposes.

- **Research:** In most cases, NightWare will ask for your written authorization before using or disclosing your PHI with others to conduct research. However, in some cases, NightWare may use or disclose your PHI without prior authorization when the research has been approved by an Institutional Review Board or Privacy Board.
- **Worker's Compensation and Other Government Requests:** NightWare may disclose your PHI in relation to workers' compensation claims payment or hearings; health oversight agencies for activities authorized by law; or special government functions (*e.g.*, military, national security).

Education and Information

NightWare may use your PHI to provide you with non-promotional and educational information on NightWare products and therapies, related trainings, programs and events. NightWare will obtain an authorization for any communications with you for marketing purposes, or any disclosures that constitute a sale of PHI. You may revoke any such written authorization at any time after you provide it.

De-Identified Information

NightWare may de-identify your PHI for the purpose of analytics and business operations. NightWare complies with the requirements for de-identification under HIPAA to ensure that you cannot be identified as a single unique individual. Once NightWare has de-identified such information, it is non-personal information, *i.e.*, is no longer considered PHI, and NightWare may treat it like other non-personal information.

Authorization

Except as described in this notice or specifically required or permitted by law, NightWare will not use or disclose your PHI without your specific written Authorization. A valid Authorization may be revoked in writing at any time. NightWare will obtain your Authorization or consent before using your PHI or disclosing it to persons or organizations outside of NightWare in the following situations:

- For marketing or promotional purposes
- Sale of your PHI
- Any other reason not described in this Notice

INFORMATION WITH ADDITIONAL PROTECTIONS

Certain types of PHI may have additional protection under federal or state law. PHI about mental health, HIV/AIDS, and some test results is treated differently than other types of PHI under certain state laws. To the extent applicable, NightWare will secure your written Authorization before disclosing that information to others in most situations.

You may revoke any authorization or consent you have provided to NightWare in writing, on the application or website where you originally gave authorization/consent, or via email at Privacy@NightWare.com.

ACCESS AND CONTROL YOUR PROTECTED HEALTH INFORMATION

You may request access to inspect or to receive an electronic or paper copy of your PHI held by NightWare, including your billing records. Under certain circumstances, NightWare may require you complete written documents to secure your PHI, and deny your request for a copy of your account record if those measures are not followed. You may be charged a reasonable cost fee for processing your request.

You may also direct NightWare to transmit your PHI (whether in hard copy or electronic form) directly to an entity or person clearly and specifically designated by you in writing.

Amend Your Account Record

If you believe that your PHI is incorrect or incomplete, you must submit a written request for NightWare to amend your PHI which includes the reason for the amendment to your PHI. You may file this request for as long as NightWare retains your information. NightWare may deny your request for an amendment, but NightWare will provide an explanation for the denial in writing within sixty (60) days.

Request an Accounting of Disclosures

You may request an "accounting of disclosures," *i.e.*, a list of the times NightWare shared your PHI and reason for sharing your PHI with other persons or organizations within the past six (6) years. This accounting, however, does not include disclosures that are made directly to you, such as those made for treatment, payment or health care operations. You may receive one free accounting in any twelve (12)-month period. NightWare will charge you for additional requests.

Request Restrictions on Use of Your PHI

You may request a restriction or limitation on the PHI NightWare uses or discloses for your treatment, payment and health care operations. If you directly pay for a product or service in full (without obtaining insurance coverage), then you may request that NightWare not disclose any information to your health plan for purposes of payment or health care operations, unless a law requires NightWare to share such information. NightWare is not required to agree to any other requests but will review your request.

Request Confidential Communications

You may request that NightWare contact or send PHI to you in a certain way or at a certain location, such as only at work or home, or only by encrypted email. NightWare will not ask you the reason for your request, and NightWare will accommodate all reasonable requests.

Request a Copy of this Notice

You have the right to receive a copy of this Notice in the format you prefer (paper or electronic) at any time. This Notice is also available on NightWare's website at www.NightWare.com/privacy-and-compliance/.

NightWare Responsibilities

NightWare is required by law to maintain the privacy of your PHI. NightWare will notify you if a breach occurs that may have compromised the privacy or security of your PHI. NightWare must follow the practices described in this Notice and will provide a copy of this Notice to you.

How to File a Complaint

If you believe your PHI has not been safeguarded, protected, or handled as required by law or pursuant to the terms of this Notice, you may file a complaint with NightWare by submitting your complaint in writing to our Privacy Officer. By email to Privacy@nightware.com or by sending your concern in writing to **Attention Privacy Officer, NightWare, Inc. 8900 Excelsior Boulevard, Hopkins, MN 55343.**

NightWare will not retaliate against you for filing any such complaint. If you wish, you may also file a complaint or seek resolution with the Secretary of Health and Human Services (200 Independence Avenue, S.W. Washington, D.C. 20201; (202) 619-0257; <https://www.hhs.gov/ocr/index.html>)

For More Information on how NightWare collects and maintains information about you, including your PHI, please review the NightWare Privacy Policy at www.NightWare.com/privacy-and-compliance/.

Effective Date of this Notice

The effective date of this Notice is April 10, 2023. NightWare reserves the right to change the terms of this Notice and the changes will apply to all information NightWare has about you. The new Notice will be available upon request and is also available on NightWare's website www.nightware.com