

Conditions of Use

CONDITIONS OF USE

Welcome to ACCARENT. ACCARENT and/or its affiliates provide website features and other products and services to you when you visit or select a procedure through our existing website and any other current or future websites, mobile applications or other distribution channels (collectively, the "Site"). ACCARENT provides the ACCARENT services subject to the following conditions. By using ACCARENT services, you agree to these conditions. Please read carefully.

We offer a wide range of services, and sometimes additional terms may apply. When you access or use our Site, or receive or use ACCARENT service(s) these Conditions of Use will apply and you also will be subject to the guidelines, terms and agreements applicable to that ACCARENT service ("Letter of Agreement (LOA)"). If these Conditions of Use are inconsistent with those LOAs, those LOAs will control.

ACCARENT may change or modify the Conditions of Use from time to time without notice. We encourage you to periodically read the Conditions of Use to see if there have been any changes. Your continued use of the ACCARENT services will signify your continued agreement to the Conditions of Use as they may be revised. The Conditions of Use statement is not intended to and does not create any contractual or other legal right in or on behalf of any party.

If you do not agree to these Conditions of Use, you may not access or use the Site or access or receive ACCARENT services.

PRIVACY

ACCARENT is committed to safeguarding your personal information. Please review our Privacy Notice, which also governs your use of ACCARENT services, to understand our practices.

ACCARENT DOES NOT PROVIDE MEDICAL ADVICE

The Contents of the ACCARENT Site, including information obtained from ACCARENT's licensors and suppliers, and other material contained on the ACCARENT Site are for informational purposes only. The Content is not intended to be a substitute for professional medical advice, diagnosis, or treatment. Always seek the advice of your physician or other qualified health provider with any questions you may have regarding a medical condition. Never disregard professional medical advice or delay in seeking it because of something you have read on the ACCARENT Site.

If you think you may have a medical emergency, call your doctor or 911 immediately. ACCARENT does not recommend or endorse any specific tests, physicians, products, services, procedures, opinions, or other information that may be mentioned on the Site. Reliance on any information provided by ACCARENT, ACCARENT employees, others appearing on the Site at the invitation of ACCARENT, or other visitors to the Site is solely at your own risk.

LICENSE AND ACCESS

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REGISTRATION AND USER ACCOUNT

Account registration is free of charge, but does not confirm eligibility or candidacy for any elected procedure offered through ACCARENT. The user account is for the individual owner of the account and no one else, no other person(s) are permitted to use your account. The payer associated with your account must create their own account in order to select and complete the confirmation process for the elected procedure.

If you use any ACCARENT service, you are responsible for maintaining the confidentiality of your account and password and for restricting access to your computer, and you agree to accept responsibility for all activities that occur under your account or password. ACCARENT does sell services for children, but it sells them to adults, who can purchase through their health plan or with a permitted payment method. If you are under 18, you may use the ACCARENT Site and/or services only with involvement of a parent or guardian. You have the right to cancel your account at any time as long as all transactions have been satisfied. The Site is not targeted toward or intended for use by anyone under the age of 18 (although certain services purchased by adults are intended or permitted for use by children). By using the Site and by accessing or purchasing services, you represent and warrant that you (a) are 18 years of age or older, (b) are a legal resident of the United States, (c) have not been previously suspended or removed from the Site, or engaged in any activity that could result in suspension or removal from the Site, (d) do not have more than one ACCARENT account, and (e) have full power and authority to enter into these Conditions of Use and in so doing will not violate any other agreement to which you are a party. ACCARENT reserves the right to refuse service, terminate accounts, remove or edit content, or cancel orders in its sole discretion.

By creating an account, you also consent to receive electronic communications from ACCARENT (e.g., via email or by posting notices to the Site). These communications may include notices about your account (e.g., password changes and other transactional information) and are part of your relationship with us. You agree that any notices, agreements, disclosures or other communications that we send to you electronically will satisfy any legal communication requirements, including, but not limited to, that such

communications be in writing. You should maintain copies of electronic communications from us by printing a paper copy or saving an electronic copy. We may also send you promotional communications via email, including information we think will be of interest to you. You may opt out of receiving these promotional emails at any time by following the unsubscribe instructions provided therein.

PASSWORDS

ACCARENT has several tools that allow you to record and store information. You are responsible for taking all reasonable steps to ensure that no unauthorized person shall have access to your ACCARENT passwords or accounts. It is your sole responsibility to (1) control the dissemination and use of sign-in name, screen name and passwords; (2) authorize, monitor, and control access to and use of your ACCARENT account and password; (3) promptly inform ACCARENT if you believe your account or password has been compromised or if there is any other reason you need to deactivate a password. To send us an email, use the "Contact Us" links located at the bottom of every page of our site. You grant ACCARENT and all other persons or entities involved in the operation of the Site the right to transmit, monitor, retrieve, store, and use your information in connection with the operation of the Site. ACCARENT cannot and does not assume any responsibility or liability for any information you submit, or your or third parties' use or misuse of information transmitted or received using ACCARENT tools and services.

SERVICES DESCRIPTIONS

ACCARENT makes reasonable attempts to be as accurate as possible. ACCARENT content is subject to change and appropriate updates will be made accordingly on our Site.

PRICING

The bundled pricing offered on the ACCARENT Site is provided by the associated hospital or center. We regularly check the bundled rates against other provider network member centers but do not guaranty specific pricing will be available, or that bundled rates will represent the "lowest" or "best" rates. With respect to bundled procedures sold by ACCARENT, we cannot confirm the price or procedure until the patient has been confirmed eligible for payment and confirmed a candidate for their elected procedure or at times when the procedure is completed. Unforeseen complexities during the procedure may alter final pricing. All prices are shown in U.S. dollars and applicable taxes and other charges are additional.

OWNERSHIP OF WEBSITE AND CONTENT

The Site and all content included in or made available through the Site, such as text, graphics, logos, button icons, images, audio clips, digital downloads, data compilations, and software, and/or through any ACCARENT services ("Content"), are the property of ACCARENT or its parent or affiliated companies and its or their licensors or other providers and suppliers ("Suppliers") and protected by United States and international copyright laws. The compilation of all content is the exclusive property of ACCARENT and protected by U.S. and international copyright laws.

TRADEMARKS

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THIRD PARTY WEBSITES

ACCARENT makes no claim or representation regarding, and accepts no responsibility for, the quality, content, nature or reliability of third party websites accessible by hyperlink from the Site or of websites linking to the Site. This includes any websites maintained by our third party payment processors or delivery service providers. When you link to those websites, you leave the Site. Such sites are not under our control, and we are not responsible for the contents of any linked site, any link contained in a linked site, or any review, changes or updates to such sites. Further, we have no control over the business practices or policies of operators of such sites. We provide these links to you only as a convenience, and the inclusion of any link does not imply our affiliation, endorsement or adoption of any site or any information contained therein. When you leave the Site, you should be aware that our Conditions and policies no longer govern. You should review the applicable conditions and policies, including those of privacy and data gathering practices, of any site to which you navigate from the Site. ACCARENT expressly disclaims all responsibility or liability for the availability or accuracy of such external sites or resources or the content thereon, does not endorse and is not responsible or liable for any advertising, services, materials or services available from such sites or resources and/or any claims, representations or warranties made by third parties with respect to their goods or services. Your use of any links is at your own risk. You further acknowledge and agree that ACCARENT shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with your use of or reliance on any goods, services or materials available on or through any such link, site or resource.

THIRD PARTY CONTENT

We may display content, advertisements and promotions from third parties through the Site or in shipments with services (collectively, “Third Party Content”). We do not control, endorse or adopt any Third Party Content, and we make no representations or warranties of any kind regarding such Third Party Content, including, without limitation, regarding its accuracy or completeness. You acknowledge and agree that your interactions with third parties providing Third Party Content are solely between you and such third parties, and that ACCARENT is not responsible or liable in any manner for such interactions or Third Party Content.

LIABILITY OF ACCARENT AND ITS SUPPLIERS

The use of the ACCARENT Site and the Content is at your own risk.

When using the ACCARENT Site, information will be transmitted over a medium that may be beyond the control and jurisdiction of ACCARENT and its Suppliers. Accordingly, ACCARENT assumes no liability for or relating to the delay, failure, interruption, or corruption of any data or other information transmitted in connection with use of the ACCARENT Site.

The ACCARENT Site and the Content are provided on an "as is" basis. ACCARENT AND ITS SUPPLIERS TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES' RIGHTS, AND FITNESS FOR PARTICULAR PURPOSE. Without limiting the foregoing, ACCARENT and its Suppliers make no representations or warranties about the following:

1. The accuracy, reliability, completeness, currentness, or timeliness of the Content (including without limitation services descriptions and bundled pricing information), software, text, graphics, links, or communications provided on or through the use of the ACCARENT Site or ACCARENT services.
2. The satisfaction of any government regulations including those requiring disclosure of information on prescription drug products or the approval or compliance of any software tools with regard to the Content contained on the ACCARENT Site.

We reserve the right to change any and all Content and to modify, suspend or stop providing access to the Site (or any features or functionality of the Site) and the services at any time without notice and without obligation or liability to you. Reference to any services, processes or other information by trade name, trademark, manufacturer, Supplier, vendor or otherwise does not constitute or imply endorsement, sponsorship or recommendation thereof, or any affiliation therewith, by us. Some jurisdictions do not allow the disclaimer of implied conditions in contracts with consumers, so some or all of the disclaimers in this section may not apply to you.

LIMITATION OF LIABILITY; RELEASE

IN NO EVENT SHALL ACCARENT OR ANY ACCARENT PARENT, AFFILIATE, LICENSOR, OR SUPPLIER OR ANY OF THEIR EMPLOYEES (the "ACCARENT PARTIES") BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE, INCOME OR PROFITS, LOSS OF USE OR DATA, LOSS OR DIMINUTION IN VALUE OF ASSETS OR SECURITIES, OR DAMAGES FOR BUSINESS INTERRUPTION) ARISING OUT OF OR IN ANY WAY RELATED TO THE ACCESS OR USE OF THE SITE OR CONTENT OR THE ORDER, RECEIPT OR USE OF ANY SERVICES OR OTHERWISE RELATED TO THESE CONDITIONS (INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES CAUSED BY OR RESULTING FROM RELIANCE BY ANY USER ON ANY INFORMATION OBTAINED FROM ACCARENT OR ANY ACCARENT PARTY, OR FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETIONS OF FILES OR EMAILS, ERRORS, DEFECTS, BUGS, VIRUSES, TROJAN HORSES, DELAYS IN OPERATION OR TRANSMISSION OR ANY FAILURE OF PERFORMANCE, WHETHER OR NOT RESULTING FROM ACTS OF GOD, COMMUNICATIONS FAILURE, THEFT, DESTRUCTION OR UNAUTHORIZED ACCESS TO PATIENT RECORDS, PROGRAMS OR SYSTEMS), REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, SIMPLE NEGLIGENCE, WHETHER ACTIVE, PASSIVE

OR IMPUTED), STRICT PRODUCT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY (EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE).

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL THE MAXIMUM AGGREGATE LIABILITY OF ACCARENT AND THE OTHER ACCARENT PARTIES (JOINTLY) ARISING OUT OF OR IN ANY WAY RELATED TO (A) THE ORDER, RECEIPT OR USE OF SERVICES PURCHASED FROM THE ACCARENT, OR (B) ACCESS OR USE OF THE SITE OR CONTENT, EXCEED THE GREATER OF \$500 OR THE AMOUNT YOU PAID TO US IN THE ONE (1) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH YOUR CLAIM AROSE. THE FOREGOING LIMITATIONS SHALL APPLY EVEN IN THE EVENT YOUR REMEDIES HEREUNDER FAIL OF THEIR ESSENTIAL PURPOSE, AND THE FOREGOING SHALL CONSTITUTE ACCARENT AND THE OTHER ACCARENT PARTIES' SOLE LIABILITY AND OBLIGATION IN RESPECT HEREOF, REGARDLESS OF THE FORM OF ACTION, WHETHER BASED IN CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, SIMPLE NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), STRICT PRODUCT LIABILITY OR ANY OTHER LEGAL OR EQUITABLE THEORY.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU, ON BEHALF OF YOUR HEIRS, EXECUTORS, ADMINISTRATORS, LEGAL AND PERSONAL REPRESENTATIVES, HEREBY RELEASE, WAIVE, ACQUIT AND FOREVER DISCHARGE ACCARENT AND THE OTHER ACCARENT PARTIES FROM AND AGAINST, AND COVENANT NOT TO SUE ANY SUCH ACCARENT PARTY FOR, ALL CLAIMS YOU HAVE OR MAY HAVE ARISING OUT OF OR IN ANY WAY RELATED TO THESE CONDITIONS. IF YOU ARE A CALIFORNIA RESIDENT, YOU HEREBY WAIVE YOUR RIGHTS UNDER CALIFORNIA CIVIL CODE 1542, WHICH STATES "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. Some jurisdictions also limit disclaimers or limitations of liability for personal injury from consumer services, so this limitation may not apply to personal injury claims.

INDEMNITY

To the fullest extent permitted by applicable law, you agree to indemnify, defend and hold harmless ACCARENT and the ACCARENT Parties, from and against all actual or alleged claims, damages, awards, judgments, losses, liabilities, obligations, penalties, interest, fees, expenses (including, without limitation, attorneys' fees and expenses) and costs (including, without limitation, court costs, costs of settlement and costs of pursuing indemnification and insurance), of every kind and nature whatsoever, whether known or unknown, foreseen or unforeseen, matured or unmatured, or suspected or unsuspected, in law or equity, whether in tort, contract or otherwise (collectively, "Claims"), including, but not limited to, damages to property or personal injury, that are caused by, arise out of or are related to (a) your use or misuse of the Site, Content or services, (b) your violation of these Conditions of Use, (c) your violation of the rights of another, and (d) any third party's use or misuse of the Site or services provided to you. You agree to promptly notify ACCARENT of any Claims and cooperate with the ACCARENT Parties in defending such Claims. You further agree that the ACCARENT Parties shall have control of the defense or settlement

of any third party Claims. This indemnity is in addition to, and not in lieu of, any other indemnities set forth in a written agreement between you and ACCARENT.

DMCA NOTICE AND TAKEDOWN PROCEDURES

In an effort to protect the rights of copyright owners, ACCARENT maintains this policy for the termination, in appropriate circumstances, of subscribers and account holders of the Site who are repeat infringers. If you believe any materials accessible on or from the Site infringe your copyright, you may request removal of those materials (or access thereto) from this Site by contacting ACCARENT's copyright agent (identified below) and providing the following information:

1. Identification of the copyrighted work that you believe to be infringed. Please describe the work, and where possible include a copy or the location (e.g., URL) of an authorized version of the work.
2. Identification of the material that you believe to be infringing and its location. Please describe the material, and provide us with its URL or any other pertinent information that will allow us to locate the material.
3. Your name, address, telephone number and (if available) e-mail address.
4. A statement that you have a good faith belief that the complained of use of the materials is not authorized by the copyright owner, its agent, or the law.
5. A statement that the information that you have supplied is accurate, and indicating that "under penalty of perjury," you are the copyright owner or are authorized to act on the copyright owner's behalf.
6. A signature or the electronic equivalent from the copyright holder or authorized representative.

ACCARENTs agent for copyright issues relating to this Site is as follows:

Accarent Health

4 North Park Drive, Suite 104,

Hunt Valley, MD 21030

Please see 17 U.S.C. § 512(c) (3) for the requirements of a proper notification. You should also note that if you knowingly make any material misrepresentation in your notification that the material or activity is infringing, you will be liable for any damages, including, without limitation, costs and attorneys' fees, incurred by us or the alleged infringer as the result of our relying upon such misrepresentation in removing or disabling access to the material or activity claimed to be infringing.

COMPLETE AGREEMENT

Except as expressly provided in a particular "legal notice" on the ACCARENT Site, these Conditions of Use, the ACCARENT Privacy Policy and, where applicable, the terms of an LOA constitute the entire agreement between you and ACCARENT with respect to the use of the ACCARENT Site, ACCARENT services, and Content.

NOTICES

All notices to ACCARENT shall be sent to:

ACCARENT, 4 North Park Drive, Suite 104, Hunt Valley, Maryland 21030, Attn: Legal; 410-771-0692. Notice is deemed delivered to us upon receipt. All notices to you will be sent electronically, using the email address associated with your account. Notice to you is deemed delivered upon verification of delivery. Notices to Site users generally may be posted to the Site.

TERMINATION

ACCARENT may terminate or limit your access or usage of the Site and Content at any time without notice.

GOVERNING LAW AND VENUE

These Conditions of Use, your access to and use of the Site and your order, receipt and use of services shall be governed by and construed and enforced in accordance with the laws of the State of Maryland, without regard to conflict of law rules or principles (whether of the State of Maryland or any other jurisdiction) that would cause the application of the laws of any other jurisdiction. Any dispute between the parties shall be resolved in the state or federal courts of the State of Maryland, provided that we may seek injunctive or other equitable relief to protect our Content or other intellectual property in any court of competent jurisdiction. We each agree to waive all right to a jury trial in connection with any matters covered by these Conditions.

MISCELLANEOUS

These Conditions constitute the entire agreement between you and ACCARENT relating to your access to and use of the sites and your order, receipt and use of services. If any term, clause or provision of these Conditions of Use is held invalid or unenforceable, then that term, clause or provision will be severable from these Conditions of Use and will not affect the validity or enforceability of any remaining part of that term, clause or provision, or any other term, clause or provision of these Conditions of Use. These Conditions of Use, and any rights and licenses granted hereunder, may not be transferred or assigned by you without the prior written consent of ACCARENT. No waiver of any provision of these Conditions of Use will constitute a waiver of such provision in any prior, concurrent or subsequent circumstance, and ACCARENT failure to assert any right or provision under these Conditions of Use shall not constitute a waiver of such right or provision. Except as otherwise provided herein, these Conditions of Use are intended solely for the benefit of the parties and are not intended to confer third party beneficiary rights upon any other person or entity. The provisions of these Conditions of Use, which, by their terms imply survival, shall survive the expiration or termination of these Conditions of Use and the termination of your ACCARENT account.

We have agreed that the language of these Conditions of Use shall be English.