

## PATIENT AGREEMENT (Weight Management)

### Jan Hester MD PC

This is an Agreement entered into on \_\_\_\_\_, 20\_\_, by and between Jan Hester MD PC, a Colorado professional corporation located at 1120 E. Elizabeth St, Building G, Suite 1, Fort Collins, CO 80524 (Jan Hester MD PC), Jan Hester MD (Physician), in her capacity as an agent of Jan Hester MD PC and \_\_\_\_\_ (Patient).

### BACKGROUND

The Physician, who specializes in Family Medicine, delivers care on behalf of Jan Hester MD PC at the address set forth above. In exchange for agreed-upon fees paid by you the Patient, Jan Hester MD PC, through its Physician, agrees to provide Patient with the Services described in this Agreement on the terms and conditions set forth in this Agreement.

### DEFINITIONS

1. **Patient.** A patient is defined as those persons for whom the Physician shall provide Services and who are signatories to, or listed on the documents attached as Appendix 1, and incorporated by reference, to this agreement.
2. **Services.** As used in this Agreement, the term Services, shall mean a package of services, both medical and non-medical, and certain amenities (collectively 'Services') which are offered by Jan Hester MD PC and set forth in Appendix 1.
3. **Terms.** This agreement shall commence on the date signed by the parties below and shall continue for a period of one month, automatically renewed.
4. **Fees.** In exchange for the services described herein, the Patient agrees to pay Jan Hester MD PC the amount set forth in Appendix 1, attached. This fee is payable upon execution of this agreement, and is in payment for the services provided to Patient during the term of this Agreement. If this Agreement is canceled by either party before the agreement termination date, then Jan Hester MD PC shall refund the Patient's prorated share of the original payment, minus the deducted charges for services rendered to Patient up to the date of cancellation.
5. **Non-Participation in Insurance.** Patient acknowledges that neither Jan Hester MD PC, nor the Physician, participate in any health insurance or HMO plans or panels and has opted out of Medicare. Neither of the above make any representations whatsoever that any fees paid under this Agreement are covered by your health insurance or other third party payment plans applicable to the Patient. The Patient shall retain full and complete responsibility for any such determination. If the Patient is eligible for Medicare, or during the term of this Agreement becomes eligible for Medicare, the Patient will sign the agreement attached as Appendix 2, and incorporated by reference. This agreement acknowledges your understanding that the Physician has opted out of Medicare, and, as a result, Medicare cannot be billed for any services performed for you by the Physician. You agree to not bill Medicare or attempt Medicare reimbursement for any such services. The Patient shall renew and sign the agreement in Appendix 2 every year.
6. **Insurance or Other Medical Coverage.** The Patient acknowledges and understands that this Agreement is not an insurance plan, and is not a substitute for health insurance or other health plan coverage (such as membership in an HMO). It will not cover hospital services, or any services not personally provided by Jan Hester MD PC, or its Physicians. The Patient acknowledges that Jan Hester MD PC has advised that the Patient obtain or keep in full force

such health insurance policy(ies) or plans that will cover the Patient for general healthcare costs. The Patient acknowledges that this Agreement is not a contract that provides health insurance, and this Agreement is not intended to replace any existing or future health insurance or health plan coverage that the Patient may carry.

7. **Term; Termination.** This Agreement will commence on the date first written above and will extend monthly thereafter. Notwithstanding the above, both the Patient and Jan Hester MD PC shall have absolute and unconditional right to terminate the Agreement, without the showing of any cause for termination, upon giving 30 days written notice to the other party. Unless previously terminated as set forth above, at the expiration of the initial one-month term (and each succeeding monthly term), the Agreement will automatically renew for successive monthly terms upon the payment of the monthly fee at the end of the contract month.
8. **Communications.** You acknowledge that communications with the Physician using email, facsimile, video chat, instant messaging and cell phone are not guaranteed to be secure or confidential methods of communication. As such, You expressly waive the Physician's obligation to guarantee confidentiality with respect to correspondence using such means of communication. You acknowledge that all such communications may become part of your medical record.

By providing the Patient's email address on the attached Appendix 1, the Patient authorizes Jan Hester MD PC, and its Physicians, to communicate with the Patient by email regarding the Patient's 'protected health information' (PHI) (as that term is defined in the Health Insurance Portability and Accountability Act (HIPAA) of 1996 and its implementing regulations). By inserting the Patient's email address in Exhibit 1, the Patient acknowledges that :

- a) Email is not necessarily a secure medium for sending or receiving PHI and that there is always a possibility that a third party may gain access;
- b) Although Jan Hester MD PC and its Physicians will make all reasonable efforts to keep email communications confidential and secure, neither Jan Hester MD PC or its Physicians can assure or guarantee the absolute confidentiality of email communications;
- c) With the discretion of the Physician, email communications may be made part of the Patient's permanent medical record; and,
- d) The Patient understands and agrees that email is not an appropriate means of communication regarding emergency or other time-sensitive issues or for inquiries regarding sensitive information. **In the event of an emergency, or a situation in which the Patient could reasonably expect to develop into an emergency, the Patient shall call 911 or the nearest Emergency Department, and follow the directions of emergency personnel.**

If the Patient does not receive a response to an email message within 24 hours, the Patient agrees to use another form of communication to contact the Physician. Neither Jan Hester MD PC nor the Physician will be liable to the Patient for any loss, cost, injury, or expense caused by, or resulting from, a delay in responding to the Patient as a results of technical failures, including but not limited to, (i) technical failures attributable to any internet service provider, (ii) power outages, failure of any electronic messaging software, or failure to properly address email messages, (iii) failure of the Practice's computers or computer network, or faulty telephone or cable data transmission, (iv) any interception of email communications by a third

party, or (v) your failure to comply with the guidelines regarding use of email communications set forth in this paragraph.

- 9. Change of Law.** If there is a change of any law, regulation or rule, federal, state or local, which affects the Agreement including these Terms and Conditions, which are incorporated by reference in the Agreement, or the activities of either party under the Agreement, or any change in the judicial or administrative interpretation of any such law, regulation or rule, and either party reasonably believes in good faith that the change will have a substantial adverse effect on that party's rights, obligations or operations associated with the Agreement, then that party may, upon written notice, require the other party to enter into good faith negotiations to renegotiate the terms of the Agreement including the Terms and Conditions. If the parties are unable to reach an agreement concerning the modification of the Agreement within forty-five days after the date of the effective date of change, then either party may immediately terminate the Agreement by written notice to the other party.
- 10. Severability.** If for any reason any provision of this Agreement shall be deemed, by a court of competent jurisdiction, to be legally invalid or unenforceable in any jurisdiction to which it applies, the validity of the remainder of the Agreement shall not be affected, and that provision shall be deemed modified to the minimum extent necessary to make that provision consistent with applicable law and in its modified form, and that provision shall then be enforceable.
- 11. Reimbursement for services rendered.** If this Agreement is held to be invalid for any reason, and if Jan Hester MD PC is therefore required to refund all or any portion of the monthly fees paid by the Patient, the Patient agrees to pay Jan Hester MD PC an amount equal to the reasonable value of the Services actually rendered to the Patient during the period of time for which the refunded fees were paid.
- 12. Amendment.** No amendment of this Agreement shall be binding on a party unless it is made in writing and signed by all the parties. Notwithstanding the foregoing, the Physician may unilaterally amend this Agreement to the extent required by federal, state or local law or regulation ("Applicable Law") by sending you 30 days advance written notice of any such change. Any such changes are incorporated by reference into this Agreement without the need for signature by the parties and are effective as of the date established by Jan Hester MD PC, except that the Patient shall initial any such change at Jan Hester MD PC's request. Moreover, if Applicable Law requires this Agreement to contain provisions that are not expressly set forth in this Agreement, then, to the extent necessary, such provisions shall be incorporated by reference into this Agreement and shall be deemed a part of this Agreement as though they had been expressly set forth in this Agreement.
- 13. Assignment.** This Agreement, and any rights Patient may have under it, may not be assigned or transferred by Patient.
- 14. Relationship of Parties.** Patient and the Physician intend and agree that the Physician, in performing his/her duties under this Agreement, is an independent contractor, as defined by the guidelines promulgated by the United States Internal Revenue Service and/or the United States Department of Labor, and the Physician shall have exclusive control of his/her work and the manner in which it is performed.
- 15. Legal Significance.** The Patient acknowledges that this Agreement is a legal document and creates certain rights and responsibilities. The Patient also acknowledges having had a reasonable time to seek legal advice regarding this Agreement and has either chosen not to do so or has done so and is satisfied with the terms and conditions of the Agreement.
- 16. Miscellaneous.** This Agreement shall be construed without regard to any presumptions or rules requiring construction against the party causing the instrument to be drafted. Captions in this Agreement are used for convenience only and shall not limit, broaden, or qualify the text.

- 17. Entire Agreement.** This Agreement contains the entire agreement between the parties and supersedes all prior oral and written understandings and agreements regarding the subject matter of this Agreement.
- 18. Jurisdiction.** This Agreement shall be governed and construed under the law of the State of Colorado and all disputes arising out of this Agreement shall be settled in the court of proper venue and jurisdiction for Jan Hester MD PC' address in Fort Collins, Colorado.
- 19. Service.** All written notices are deemed served if sent to the address of the party written above or appearing in Exhibit 1 by first class US mail.

The parties have signed duplicate counterparts of this Agreement on the date first written above.

**Jan Hester MD PC**

By \_\_\_\_\_

Jan Hester MD, President of Jan Hester MD PC

Name (printed) \_\_\_\_\_

Signature \_\_\_\_\_

Exhibit 1: Patient Agreement

### **Appendix 1**

#### Services and Payment Terms

- 1. Medical Services.** As used in this Agreement, the term Medical Services shall mean those medical services that the Physician, him/herself is permitted to perform under the laws of the State of Colorado and that are consistent with his/her training and experience as a Family Medicine Physician, as the case may be. The Patient shall be entitled to the following:
  - Weight Management Health History
  - Physical Exam
  - BMI Assessment
  - Wellness Plan to include Exercise and Dietary Recommendations
  - Unlimited weigh-ins
  - Monthly or every other month face-to-face office visits with the Physician

The fees for services provided by Jan Hester MD PC as outlined above are as follows: \$45/month, recurring. If you are a Medicare beneficiary, an additional "Medicare Opt-Out" contract will also need to be signed, and renewed annually.

The Physician may from time to time, due to vacation, sick days and other similar situations, not be available to provide the services referred to above in this paragraph 1. During such times, Patient's call to the Physician, or to the Physician's office, will be directed to a provider who is 'covering' for the Physician during his/her absence. Jan Hester MD PC will make every effort to arrange for coverage but cannot guarantee such coverage.

2. **Non-Medical, Personalized Services.** Jan Hester MD PC shall also provide Patient with the following non-medical services ("Non-Medical Services"):
  - a) **Email Access.** The Patient shall be given the Physician's email address to which non-urgent communications can be addressed. Such communications shall be dealt with by the Physician or staff member of the Practice in a timely manner. **The Patient understands and agrees that email and the internet should never be used to access medical care in the event of an emergency, or any situation that the Patient could reasonably expect may develop into an emergency.** The Patient agrees that in such situations, when the Patient cannot speak to a Physician immediately in person or by telephone, that the Patient shall call 911 or the nearest emergency medical assistance provider, and follow the instructions or emergency medical personnel.
  - b) **No Wait or Minimal Wait Appointments.** Every effort shall be made to ensure that the Patient is seen by the Physician immediately upon arriving for a scheduled office visit or after only a minimal wait. If the Physician foresees a minimal wait time, the Patient shall be contacted and advised of the projected wait time.
  - c) **Same Day/Next Day Appointments.** When the Patient calls or emails the Physician prior to noon on a normal office day (Monday through Friday) to schedule an appointment, every reasonable effort shall be made to schedule an appointment with the Physician on the same day. If the Patient calls or emails the Physician after noon on a normal business day (Monday through Friday) to schedule an appointment, every reasonable effort shall be made to schedule the Patient's appointment with the Physician on the following normal office day. In any event, however, Jan Hester MD PC shall make every reasonable effort to schedule an appointment for the Patient on the same day the request is made.
  - d) **Specialists.** The Jan Hester MD PC Physician shall coordinate with medical specialists to whom the Patient is referred to assist the Patient in obtaining specialty care. The Patient understands that fees paid under this Agreement do not include and do not cover specialists' fees or fees due to any medical professional other than the Jan Hester MD PC Physician.

Patient's Email Address: \_\_\_\_\_