



NEXJ CONNECTED WELLNESS TERMS OF USE

(Last Updated: March 2020)

To better protect your privacy and security, these are some of the latest updates to our Terms of Use of NexJ Connected Wellness:

- *Clear language that describes your rights to and your ownership of your data*
- *Expanded minimum age of use of NexJ Connected Wellness*
- *Clarification in regards to content made available to you by NexJ Health on NexJ Connected Wellness*
- *Additional sections clearly describing Healthcare Professionals' rights and responsibilities when using NexJ Connected Wellness*
- *Details on alerts and notifications that you may receive through NexJ Connected Wellness*

Please read the full NexJ Connected Wellness Terms of Use. By accepting the Terms of Use, you are accepting the legal agreement and are able to use the service.

1. Introduction and Summary of Terms of Use

These Terms of Use (the “Terms” or “ToU”) are a legal agreement between you and NexJ Health Inc. (“NexJ” or “NexJ Health”), governing your use of NexJ Connected Wellness (“NCW” or the “Platform”) and any other NexJ products or services (collectively the “Service”).

These Terms are a legally binding agreement between you and NexJ Health, which you accept and agree to by registering for an account, or by using the Service. **If you do not agree to these Terms, you should not register an account or use the Service.**

These Terms apply to all users of the Service. There are different categories of users. If you are an individual using the Service to manage and track your health and wellbeing, or to receive health and well-being support, you are a “Participant”. If you are using the Service professionally, or in the course of employment, you are a “Professional” (or “Healthcare Professional”). If you are a friend, family member, or other ally of a Participant using the Service to support a Participant, you are a “Circle of Care Member”. If you are not certain which type of user you are, and/or which sections of these Terms apply to you, please contact privacy@nexjhealth.com for clarification prior to agreeing to these Terms, or using the Service.

These Terms set out:

- Who may use the Service
- The specific obligations of Participants using the Service
- The specific obligations of Healthcare Professionals using the Service
- A code of conduct applicable to all users
- Information about how NexJ uses and safeguards your data
- Information about how disputes between you and NexJ will be resolved, and the limitations of NexJ’s liability

NexJ does not warrant that the Service will be free of non-material errors, bugs, or minor interruption, or that all such errors will be corrected. NexJ reserves the right to remove or alter any feature of the Service to comply with applicable laws and industry-best security practices.



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NexJ may update these Terms at any time, on notice to you.

2. Who May Use the Service

a) IF YOU ARE A PARTICIPANT:

You may use the Service to access the programs and services available on the Platform, and to share your information with your friends, family, Healthcare Providers and other allies (collectively, "Circle of Care"), as permitted by these Terms of Use. "Healthcare Providers" means those Physicians, Nurses, Nurse Practitioners, Physician Assistants, Kinesiologists, Dietitians, Psychologists, Social Workers, Health Coaches, Personal Support Worker, Home Worker, and other qualified medical and lay practitioners credentialed or authorized to provide medical or other health advisory services to you.

The Platform permits, but does not require, you to authorize your Circle of Care to share additional information about you, your health, and wellbeing, with you or other members of your Circle of Care through the Service. You can also authorize other members of your Circle of Care to view and use information on the Platform about you, your health, and wellbeing. If you authorize Healthcare Providers or others to access, view, and/or use your information, they will have the ability to (manually or automatically) copy that information into other systems, databases, or forms of storage, that are not within NexJ's control. For information about how NexJ Health uses and treats your information, please refer to our Privacy Statement.

NexJ cannot, and does not, guarantee the confidentiality of any information once it has been shared by you with other users.

Your information, including health-related information, that is stored or otherwise available on or through the Service may not always be accurate or up-to-date, and should not be viewed as such by you, and any member of your Circle of Care (including any Healthcare Provider) that you share it with.

The base level of service available to you may be limited in terms of resources like storage, bandwidth, or content. To use certain programs and services, you may need to agree to additional terms of use. Certain programs and services on the Platform are provided by third parties. NexJ Health does not operate, control or supply any information, product or service that is not clearly identified as supplied by NexJ Health. Your use of such third party programs is governed by those programs and services' separate terms of use. Your use of them does not alter your legal relationship with NexJ Health or increase NexJ's liability to you.

If your access to the Service is cancelled, NexJ Health may permanently delete your data from our servers. NexJ Health has no obligation to return data to you after your access to the Service is cancelled. If data is stored with an expiration date, NexJ Health may also delete the data as of that date. Data that is deleted may be irretrievable. You should ensure that you keep a secure backup or separate copy of any vital data.

Persons under the age of 13, or any higher minimum age in the jurisdiction where that person resides, are not permitted to access or use the Service unless their parent or legal guardian has provided consent in accordance with applicable law. If you have reason to believe that NexJ Health



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may have accidentally received personal information from an individual under age 13 without parental consent, please contact NexJ Health immediately at privacy@nexjhealth.com.

b) IF YOU ARE A HEALTHCARE PROFESSIONAL

As a Healthcare Professional, you shall remain responsible under applicable law for the secure custody of medical records, data or information, including responsibility for compliance with laws relating to patient records, including patient consents. **The Platform is not a substitute for an EMR, or other record keeping system. Your professional college (or another regulatory body) may impose restrictions on how you may communicate with your patients. It is your responsibility to ensure that your use of the Service is consistent with any such restrictions.**

Your patients who are Participants may connect with you through the Service by providing explicit consent for you to view, access, and/or edit their information, and/or act on their behalf. To the extent that the Service may be used to store or access any personal health information or other sensitive data, you shall be responsible for complying with any applicable law relating to the protection, use, and storage of such information.

3. Code of Conduct

As a user of the Service you are responsible for all uses you make of the Service, and all content you upload to, or otherwise enter into the Service. You must not damage, disable, overburden or impair the Service. You must not resell or redistribute the Service or any part of it; use unauthorized means to modify, reroute, or gain access to the Service or attempt to carry out these activities or use any automated process or service (such as a bot, a spider, periodic caching or metasearching) to access or use the Service. You may be able to access third-party websites or information using the Service. NexJ Health is not responsible for such websites or information.

You will not upload, post, transmit, transfer, disseminate, distribute or facilitate the distribution of any content, including text, images, video, sound, data, information, or software, that:

- Incites, advocates, or contains: pornography, obscenity, vulgarity, profanity, hatred, bigotry, racism, or violence;
- Misrepresents the source of anything you post, including impersonation of another individual or entity;
- Provides or creates links to external sites that violate this Code of Conduct;
- Includes content that violates the intellectual property rights, or other rights, of any other party or person;
- Is intended to harm or exploit any other person in any way;
- Is designed to solicit, or collect personally identifiable information of any minor, including, but not limited to: name, email address, home address, phone number, or the name of their school;
- Invades anyone's privacy by attempting to harvest, collect, store, or publish private or personally identifiable information, such as passwords, account information, credit card numbers, addresses, or other contact information without their foreknowledge and willing consent;
- Is illegal or violates any applicable laws; including but not limited to child pornography, bestiality, incest, illegal drugs, software piracy, and harassment;
- Threatens, stalks, defames, defrauds, degrades, victimizes, or intimidates an individual or group



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of individuals for any reason; including on the basis of age, gender, disability, ethnicity, sexual orientation, race, or religion; or incites or encourages anyone else to do so;

- Harms or disrupts, or intends to harm or disrupt another user's computer, or would allow you or others to illegally access software or bypass security on Web sites, or servers, including but not limited to spamming;
- Attempts to impersonate a NexJ Health employee, agent, manager, host, administrator, another user, or any other person through any means;
- Promotes or otherwise facilitates the purchase and sale of ammunition or firearms;
- Contains or could be considered 'junk mail', 'spam', 'chain letters', 'pyramid schemes', 'affiliate marketing' or unsolicited commercial advertisement;
- Contains advertising for money making schemes, discount cards, credit counseling, online surveys or online contests.

You may not access the Services in order to engage in any form of benchmarking or other competitive analysis, or if you intend to develop a product or service that is in any way competitive with the Service. You shall not, nor shall you permit others to, translate, reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code from all or any part of the Service except to the extent applicable law expressly prohibits the foregoing restriction.

NexJ Content, the Service, and its underlying technology are protected by copyright, trademark, patent, intellectual property, and other laws of Canada and foreign countries. "NexJ Content" includes any photos, images, graphics, video, audio, data, text, music, exercise regimens, food logs, recipes, comments, software, workbooks, questionnaires, works of authorship of any kind, and other information, content, or other materials that are posted, generated, provided, or otherwise made available through the Service by NexJ.

We reserve all rights not expressly set forth in these Terms. You agree not to remove, change or obscure any copyright, trademark, service mark, or other proprietary rights notices incorporated in or accompanying the Service. Our logos and any other NexJ trademarks that may appear on the Service, and the overall look and feel of NCW, including page headers, graphics, icons, and scripts, may not be copied, imitated or used, in whole or in part, without our prior written permission. Other trademarks, product, and service names and company names or logos mentioned on NCW are the property of their respective owners and may not be copied, imitated or used, in whole or in part, without the permission of the applicable trademark holder.

You will not use any form of automated device or computer program that enables content to be uploaded to, or entered into the Service without the express written consent of NexJ Health.

NexJ Health reserves the right, at its sole discretion, acting reasonably, and without any obligation to do so, to review and remove user-created content at will and without notice, and delete content and accounts that violate this Code of Conduct. NexJ Health reserves the right, at its sole discretion, acting reasonably, to terminate or suspend users' access to the Service.

NexJ Health is not responsible for user-contributed information stored in the Service. The decision to view and/or share information or engage with Healthcare Providers or others is yours. NexJ Health advises you to use your best judgment.

You are responsible for protecting your computer and other devices against interference, spyware or viruses that may be encountered for downloaded items from the Service. NexJ Health



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recommends you install a virus protection program on your computer and mobile device and keep it up to date.

4. Privacy Policy

NexJ Health takes your privacy very seriously. When using any service to manage your health and wellness, you should feel safe and confident that your information is not being used for any malicious intent.

NexJ may use the information you upload or otherwise enter into the Service in the following ways:

- To provide you with the Service
- As instructed by you (e.g. to share your information with your Circle of Care); and
- To comply with legal obligations (e.g. a court order)

Unless required by a court order or similar instrument, NexJ will not disclose your information to any third party unless: a) you consent; or b) NexJ reasonably believes that such disclosure is necessary to ensure the safety of you or others.

NexJ also uses anonymous, aggregate, data provided by users:

- To monitor the Service's performance; and
- To improve the Service

By accepting these Terms, you agree to this use of your anonymized data.

In order to provide you the Service, NexJ Health may collect certain information about Service performance, your use of the Service, and any device or network you use to access the Service. NexJ Health may automatically collect this information from your device or network, but any such automatically collected data will not personally identify you. NexJ Health confirms that PHI collected by NexJ Health through NCW will not be shared without your explicit consent, other than as provided for by these Terms of Use, the Privacy Statement, or applicable law. You may read about this information collection in more detail in our Privacy Statement.

You confirm that you have the legal authority to consent to NexJ Health processing all information (including health information) you provide, including by obtaining the explicit consent of all other persons whose health data you provide. That includes storing, using and disclosing the data in accordance with the Privacy Statement.

The Service is a private computer network that NexJ Health operates for the benefit of itself, its users, and its customers. NexJ Health retains the right to block or otherwise prevent delivery of any type of email or other communication to or from the Service as part of our efforts to protect the Service, protect our customers, or stop any party from breaching this contract.

As a user of the Service, you may receive notifications, text messages, alerts, emails, and other electronic communications. You consent to be sent these communications. You can control most communications from the Service by using your account settings. We may need to provide you with certain communications, such as service announcements and administrative messages. You are responsible for any messaging or data fees you may be charged by your wireless carrier. To the greatest extent permitted by law, you agree that any notices, agreements, disclosures, or other



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communications that we send to you electronically will satisfy any legal communication requirements, including that the communication be in writing.

5. Liability and other Legal Terms

NexJ's Liability to you is Strictly Limited

To the greatest extent permitted by law, **NexJ's sole, cumulative, liability to you for any and all claims arising out of your use of the Service (other than for NexJ's intentional misconduct or gross negligence) is limited to the lesser of \$250, or your actual, provable, direct damages.**

IN NO EVENT WILL NEXJ BE LIABLE FOR ANY:

- **INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES;**
- **DAMAGES FOR LOSS OF PROFITS, REVENUE, OR INCOME; OR**
- **DAMAGES ARISING FROM THE LOSS OF DATA OR DATA USE.**

No action or proceeding relating to this contract may be commenced by you more than one year after the date that you first knew, or ought to have known, the fact or facts giving rise to the cause of action.

The Service is Provided "as-is" and without Warranties

Your use of the Service and any NexJ Content is at your own risk. We make no endorsement, representation, or warranty of any kind about any NexJ Content or the Service. The accuracy of the data collected and presented through the Service is not intended to match that of medical devices or scientific measurement devices.

NexJ Health provides the Service "AS-IS," "WITH ALL FAULTS" and "AS AVAILABLE." NexJ Health cannot guarantee the accuracy or timeliness of information available from the Service. You acknowledge that computer and telecommunications systems are not fault-free and occasional periods of downtime occur. NexJ Health does not guarantee the Service will be uninterrupted, timely, secure, or error-free, or that data loss will not occur. NexJ Health and our affiliates and third party providers of programs or services give no express warranties, guarantees, or conditions. NexJ Health and its affiliates and third party providers of programs and services exclude any implied warranties or conditions, including for merchantability, satisfactory quality, fitness for a particular purpose, workmanlike effort, and noninfringement.

The Service is not a Substitute for Medical Care

The Service is not intended to diagnose, treat, cure, or prevent any disease. The service does not replace the need for qualified medical advice or treatment. Always seek the advice of your physician or other qualified healthcare provider with any questions you may have regarding a medical condition, diet, fitness or wellness program as it pertains to your specific needs. Never disregard professional medical advice for delay in seeking it because of information you accessed on or through the Service.

If you experience a medical emergency, you should stop using the Service and consult with a medical professional, or call emergency services. We are not responsible for any health problems that may result from training programs, consultations, products, or events you learn about through the Service.



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If you engage in any exercise or wellness program you receive or learn about through the Service, you agree that you do so at your own risk and are voluntarily participating in these activities.

NexJ has the Right to use any Feedback you Provide

We value your feedback and use it to improve the platform and overall user experience. If you submit comments, ideas, or feedback to us, you agree that NexJ can use, disclose, reproduce, distribute, and exploit them without any restriction or compensation to you. NexJ does not waive any rights to use similar or related ideas or feedback previously known to us, developed by NexJ, or obtained from sources other than you. Our Feedback and Submissions Policy is also part of the Terms.

NexJ May Alter these Terms or the Service at any Time

NexJ Health may change the Service or delete features at any time and for any reason. NexJ Health may cancel or suspend your access to the Service and your access to the Service at any time. Your ability to access and use third party programs or services may be terminated if your access to the Service is suspended or terminated.

NexJ Health reserves the right to amend or change these Terms of Use at any time and will notify you by posting new terms. If you do not agree to the Terms of Use, you will not be able to use the service. NexJ Health encourages you to periodically review these terms of use to ensure you are in compliance.

Other Legal Terms

These Terms of Use shall be governed by and construed in accordance with the laws in force in the Province of Ontario, without regard to its choice of law principles. The parties hereby expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods. By agreeing to these Terms, you submit to the exclusive jurisdiction of the federal and provincial courts located in Toronto, Ontario, for any disputes arising out of these Terms or your use of the Service.

Should a court of competent jurisdiction declare any provision of this agreement to be invalid or unenforceable, said provision shall be severed from the balance of this contract and the remaining provisions of this contract shall continue in full force and effect.

NexJ Health may assign, transfer, or otherwise dispose of its rights and obligations under this contract, in whole or in part, at any time without notice. You may not assign this contract or transfer any rights to use the Service.

Any notices required under or in connection with this contract will be sent either using the Service or to your email address stored in your NCW account profile. You may send NexJ Health notices our customer support team via by email to support@nexjhealth.com.

The parties hereto have required that this Contract and all documents relating hereto be in English. Les parties ont demandé que cette convention ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.



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6. Additional Terms for Smartphone Application Use and the iOS Application

The Service may be accessed from a web browser or using native applications ("Smartphone Applications") that run on Android or Apple iOS devices. Smartphone Applications are owned by NexJ Health and licensed to you on a non-exclusive, non-transferable basis solely for the purpose of using the Smartphone Application to access and use the Service. The terms of this Section 6 only apply to users of the Service using an iOS Smartphone Application to access the Service. You agree that your license to use the iOS Smartphone Application is limited to a non-transferable license to use the iOS application on an iOS product that you own or control and as permitted by the Usage Rules set forth in the App Store Terms of Service. You and NexJ Health agree that these terms of use are between you and NexJ Health, not Apple, and that NexJ Health is solely responsible for the iOS Smartphone Application and the content thereof. NexJ Health is solely responsible for providing maintenance and support with respect to the iOS Smartphone Application. You and NexJ Health acknowledge that Apple has no obligation whatsoever to furnish any maintenance and support services with respect to the iOS Smartphone Application. These terms of use provide no warranties with respect to the iOS Smartphone Application and to the maximum extent permitted by law disclaim any warranties implied by law. To the extent that the disclaimer is ineffective at disclaiming any applicable warranty, you may notify Apple, and Apple will refund the purchase price of the iOS Smartphone Application (if any) to you; and to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the iOS Smartphone Application and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be NexJ Health's sole responsibility. You and NexJ Health acknowledge that NexJ Health, not Apple, is responsible for addressing any claims relating to the iOS Smartphone Application or your possession of the iOS Smartphone Application including but not limited to: (i) product liability claims; (ii) any claim that the iOS Smartphone Application fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. Nothing in these terms limits NexJ Health's liability to you beyond what is permitted by applicable law. You and NexJ Health acknowledge that in the event of any third party claim that the iOS Smartphone Application or your possession and use of the iOS Smartphone Application infringes any third party's intellectual property rights, NexJ Health, and not Apple, will be solely responsible for the investigation, defense, settlement and discharge of any such intellectual property infringement claim. You represent and warrant that you are not located in a country that is subject to a U.S. government embargo, or that has been designated by the U.S. government as a "terrorist supporting" country; and you are not listed on any U.S. government list of prohibited or restricted parties. You must comply with any applicable third party terms of agreement when using the iOS Smartphone Application, i.e., any terms of service of a data carrier for the wireless device you are using. You and NexJ Health acknowledge and agree that Apple, and Apple's subsidiaries, are third party beneficiaries of these additional terms related to use of the iOS Smartphone Application contained in this Section 6 (the "Additional Terms"), and that, upon your acceptance of these terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Additional Terms against you as a third party beneficiary thereof.