



PATIENT AGREEMENT FUNCTIONAL FAMILY MEDICINE

THIS PATIENT AGREEMENT (“**Agreement**”) is entered into on _____, 20____, (“**Effective Date**”) by and between FUNCTIONAL FAMILY MEDICINE, LLC, a New Mexico limited liability company, located at 7301 Jefferson St. NE, Suite G, Albuquerque, NM 87109 (“**Functional Family**”), and the individual or individuals named on the appropriate Client Intake Form(s), incorporated herein by reference, with an address as enumerated on the appropriate Client Intake Form(s) (the “**Patient**”, without regard to whether one or more individuals are named).

RECITALS

WHEREAS, Functional Family provides family medical services and delivers personalized care and Services, as enumerated in Attachment B, Services & Fees, incorporated herein by reference.

WHEREAS, Patient, according to the terms of this Agreement, desires to hire Functional Family for access to Services.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and promises herein contained, the parties agree as follows:

1. **Definitions.** Throughout this Agreement, the following terms shall have the following meanings:

- (a) “**Functional Family**” shall mean Functional Family Medicine, LLC, together with any and all of its medical practitioners.
- (b) “**Patient**” shall mean the individual (or individuals) specifically documented on the appropriate Client Intake Form(s). If one or more minors, incapacitated persons or persons subject to a power of attorney are documented on the appropriate Client Intake Form(s), “**Patient**” shall include, jointly and severally, the parent or legal guardian of the Patient.
- (c) “**Services**” shall mean those services specifically enumerated in Attachment B, Services & Fees, and shall exclude any and all other services not specifically enumerated, including but not limited to specialized services, emergency services, prescriptions, lab work, x-rays, ultrasound, MRI or those services Functional Family is not equipped, licensed or otherwise capable of providing.

2. **Term.** This Agreement shall be an initial (3) three month contract, commencing on the Effective Date, after which this Agreement shall automatically renew for an additional one-month terms until either party shall terminate as provided hereunder this Agreement.

3. **Termination.** Either party may terminate this Agreement for any reason whatsoever, without the showing of any cause, upon giving thirty (30) day written notice to the other party.

4. **Fees.** In consideration for the Services provided, Patient agrees to pay Functional Family, the amount as set forth in Attachment B. 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 terminated by either party before the Agreement termination date, then Functional Family shall refund the Patient's prorated share of the original payment, remaining after deducting individual charges for any Services rendered to Patient up to the date of termination. Patient agrees herein that Functional Family may charge his or her credit card monthly to pay the monthly fees as described herein and on Attachment A, Credit Card Recurring Payment Authorization Form, incorporated herein by reference.

5. **Non-Participation in Insurance.** Patient understands and acknowledges that Functional Family does NOT participate in any health insurance, PPO or HMO plans or panels and has opted out of Medicare. Neither of the above make any representations or warranties whatsoever that any fees paid under this Agreement are covered by Patient's 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, then Patient will sign the agreement attached as Attachment C, and incorporated herein by reference. Patient shall renew and sign the agreement attached as Attachment C every two years. By signing this Agreement, Patient expressly understands and acknowledges his/her understanding that the Functional Family has opted out of Medicare, and as a result, Medicare cannot be billed for any Services performed on your behalf. You agree not to bill Medicare or attempt Medicare reimbursement for any such Services.

6. **Insurance or Other Medical Coverage.** PATIENT UNDERSTANDS AND ACKNOWLEDGES THAT THIS AGREEMENT IS NOT AN INSURANCE PLAN, NOR A SUBSTITUTE FOR HEALTH INSURANCE OR OTHER HEALTH PLAN COVERAGE (such as membership in an HMO). This Agreement does not cover hospital services, or any services not personally provided by Functional Family. PATIENT HEREBY REPRESENTS AND WARRANTS THAT FUNCTIONAL FAMILY HAS ADVISED PATIENT TO EITHER OBTAIN OR KEEP IN FULL FORCE SUCH HEALTH INSURANCE POLICY(IES) OR PLANS THAT WILL COVER PATIENT FOR GENERAL HEALTHCARE COSTS. Patient understands and 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 Patient may carry.

7. **Communications.** Patient understands and acknowledges that communications with the Functional Family using e-mail, facsimile, video chat, instant messaging, and cell phone are not guaranteed to be secure or confidential methods of communications. As such, Patient hereby expressly waives Functional Family's obligation to guarantee confidentiality with respect to correspondence using such means of communication. Patient understands and acknowledges that all such communications may become a part of his/her medical records.

By providing Patient's e-mail address on the appropriate Client Intake Form(s), Patient authorizes Functional Family to communicate with Patient by e-mail regarding Patient's "protected health information" ("PHI") (as that term is defined in the Health Insurance Portability and Accountability Act (HIPAA) of 1996, its amendments and implementing regulations). Furthermore, by inserting Patient's e-mail address in the appropriate Client Intake Form(s), Patient understands and acknowledges that:

- (a) E-mail is not a secure medium for sending or receiving PHI and there is always a possibility that a third-party may gain access;
- (b) Although Functional Family will take reasonable precautions to keep e-mail communications confidential and secure, Functional Family can not assure or guarantee the absolute confidentiality of e-mail communications;
- (c) In the discretion of Functional Family, e-mail communications may be made a part of Patient's permanent medical record; and
- (d) Patient understands and agrees that E-mail 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 Patient could reasonably expect to develop into an emergency, Patient shall call 911 or the nearest Emergency room, and follow the directions of emergency personnel.*

If Patient does not receive a response to an e-mail message within one (1) day, Patient agrees to use another means of communication to contact Functional Family. Functional Family expressly disclaims any liability associated with any loss, cost, injury, or expense caused by, or resulting from, a delay in responding to Patient as a result of any action, inaction or activity outside Functional Family's control or

technical issues within Functional Family's control, 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 e-mail messages, (iii) failure of Functional Family's computers or computer network, or faulty telephone or cable data transmission, (iv) any interception of e-mail communications by a third-party; or (v) Patient's failure to comply with the guidelines regarding use of e-mail communications set forth in this section.

8. **Change of Law.** If there is a change of any law, regulation or rule, federal, state or local, which affects this Agreement, or the duties or obligations 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 this Agreement, then that party may, upon written notice, require the other party to enter into good faith negotiations to renegotiate the terms of this Agreement. If the parties are unable to reach an agreement concerning the modification of this Agreement within forty-five (45) days after of date of the effective date of change, then either party may immediately terminate the Agreement by written notice to the other party.

9. **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 this 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.

10. **Reimbursement for Services Rendered.** If this Agreement is held to be invalid for any reason, and if Functional Family is therefore required to refund all or any portion of the Fees paid by Patient, Patient agrees to pay Functional Family an amount equal to the reasonable value of the Services actually rendered to Patient during the period of time for which the refunded fees were paid.

11. **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, Functional Family may unilaterally amend this Agreement to the extent required by federal, state, or local law or regulation ("**Applicable Law**") by sending Patient a thirty (30) day advance written notice of any such change. Any such changes are hereby incorporated by reference into this Agreement without the need for signature by the parties and are effective as of the date established by Functional Family, except that Patient shall initial any such change upon Functional Family'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.

12. **Assignment.** This Agreement, and any rights Patient may have under it, may not be assigned or transferred by Patient.

13. **Relationship of Parties.** Patient and Functional Family intend and agree that Functional Family, in performing its duties hereunder this Agreement, is an independent contractor, as defined by the guidelines promulgated by the United States Internal Revenue Service and for the United States Department of Labor, and Functional Family shall have exclusive control of his work and the manner in which it is performed.

14. **Legal Significance.** Patient understands and acknowledges that this Agreement is a legal document and creates certain rights and responsibilities. Patient represents and warrants that he/she has 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 this Agreement.

15. **Force Majeure.** Neither party shall be liable to the other for the failure of delay in the performance of any of his obligations under this Agreement when such failure or delay is due to fire, flood, strike, riots, wars, embargoes, governmental laws, orders or regulations, storms or other similar or different contingencies beyond the reasonable control of the respective parties.

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. **Notice.** All written notices are deemed served if sent to the address of the party written above or appearing in the appropriate Client Intake Form(s) by first class U.S. mail, and if Patient changes his/her address, Patient shall notify Functional Family promptly of his/her change of address.

19. **Governing Law; Venue; Waiver of Jury Trial.** This Agreement shall be construed in accordance with, and governed in all respects by, the substantive laws of the State of New Mexico, without regard to its conflicts of law principles, and applicable federal law. The parties hereby consent to the exclusive jurisdiction and venue in the state courts in Bernalillo County, New Mexico or federal court for the District of New Mexico, and both parties hereby agree to the personal jurisdiction of said courts. Both parties each irrevocably waive the right to a jury trial in connection with any legal proceeding relating to this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the Effective Date.

(Printed Name of the Patient, Parent or Legal Guardian)

Signed: _____

Date: _____

FUNCTIONAL FAMILY MEDICINE, LLC

By: _____

Its: _____

Printed Name: _____

Date: _____

Attachment A
Credit Card Recurring Payment Authorization Form

I hereby authorize Functional Family Medical, LLC (hereinafter “**Functional Family**”) to charge the credit card indicated in this authorization form according to the terms and conditions of the Patient Agreement. If payment dates fall on a weekend or holiday, I understand that the payments may be executed on the next business day. I understand that this authorization will remain in effect until I cancel it in writing, and I agree to notify the business in writing of any changes in my account information or termination of this authorization as required in the Patient Agreement.

I certify that I am an authorized user of the credit card listed below, and that I will not dispute the scheduled payments with my credit card company provided the transactions correspond to the terms indicated in this authorization form, as well as the Patient Agreement. I agree to reimburse Functional Family its out-of-pocket costs, plus fifty (\$50) dollars for any chargebacks I request, if I don't first issue a termination request as provided for in the Patient Agreement.

Authorization:

I, _____, authorize Functional Family Medicine, LLC, to charge my credit card indicated below on the same day of the month as when my credit card was first charged and each month thereafter for payment of my monthly fee for Medical Services.

I understand that I will NOT receive advanced notice of the charge.

Billing Address: _____

City, State, Zip: _____

Phone #: _____ Email: _____

Account Type:	<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard	<input type="checkbox"/> Amex	<input type="checkbox"/> Discover
Cardholder Name:	_____			
Account Number:	_____			
Expiration Date:	_____	CVV:	_____	
*CVV is the 3-digit number on the back of Visa/MC, 4-digit on front of Amex				

SIGNATURE: _____

Date: _____

Attachment B Services & Fees

Fees for the Services are as follows:

Monthly Recurring Charges:

Adults 18-64 yrs \$59.95/ month plus tax

Adults 65 yrs and older \$99.95/month plus tax

Children 0-17 yrs, and up to 26 yrs if full time student \$19.95/Month plus tax (Please note: At this time we are unable to provide routine vaccinations for young children, but we will happily work with you to arrange these).

Additional Fees For:

Functional Family reserves the right to assess additional, third-party or out-of-pocket fees or costs at any time according to your specific treatment needs.

The Medical Services (the "Services") provided by this Agreement include:

As used in this Agreement, the phrase "Medical Services," or the term "Services," shall mean those medical services that Functional Family's medical practitioners are permitted to perform under the laws of the State of New Mexico, and that are consistent with their training and experience. The Patient shall also be entitled to an annual in-depth "wellness examination and evaluation," which includes the following:

- Health Risk Assessment
- Vision and Hearing Screening
- Pulmonary Function Testing
- EKG
- Comprehensive Lab Screening (some restrictions apply)
- Body Fat Analysis
- Psychosocial Screening
- Custom Wellness Plan to Include Exercise and Dietary Plan

Functional Family's medical practitioners may, from time-to-time, due to vacations, sick days, and other similar situations, not be available to provide the Services referred to above. During such times, Functional Family will direct your calls or visits to alternative medical practitioners who will be "covering" for the Functional Family's medical practitioners during their absence. Functional Family will make every effort to arrange for coverage but cannot guarantee such coverage.

Additional, Non-Medical, Personalized Services include:

In addition to the Medical Services enumerated above, the Services shall also include the following benefits ("Non-Medical Services"):

- (a) **24/7 Access.** Patient shall have access to Functional Family via instant messaging and video chat. Patient shall also have direct telephone and pager access to Functional Family on a twenty-four hour per day, seven-day per week basis (24x7x365). Patient shall be given a phone and pager number where Patient may reach functional family directly, around-the-clock. During Functional Family absence for vacations, continuing medical education, illness, emergencies, or days off, Functional Family will provide the services of an appropriate licensed healthcare provider for assistance in providing Services. Patient shall be given instructions as to how to contact such healthcare provider. Such provider shall be available to Patient to the same extent as would Functional Family, however provider shall be contacted through an answering service rather than through a direct phone line.

Attachment B Services & Fees

- (b) **E-Mail Access.** Patient shall be given Functional Family's e-mail address to which non-urgent communications can be submitted. Functional Family shall strive to deal with such communications in a non-urgent, but timely manner. Patient understands and agrees that email and the Internet should never be used for medical care or advice in the event of an emergency, or any situation that Patient could reasonably expect may develop into an emergency. Patient agrees that in such situations, when a Patient cannot speak to Functional Family immediately in-person or by telephone, Patient must call 911 or the nearest emergency medical assistance provider, and follow the directions of emergency medical personnel.
- (c) **No-Wait or Minimal-Wait Appointments.** Every effort shall be made to ensure that Functional Family sees Patient immediately upon arriving for a scheduled office visit or after only a minimal wait. If Functional Family foresees anything more than a minimal wait time, Patient shall be contacted and advised of the projected wait time.
- (d) **Same Day/Next Day Appointments.** When Patient calls or e-mails Functional Family 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 a medical practitioner on the same day. If Patient calls or e-mails Functional Family after noon on a normal office day (Monday through Friday) to schedule an appointment, every reasonable effort shall be made to schedule Patient's appointment with a medical practitioner on the following normal office day. In any event, however, Functional Family shall make every reasonable effort to schedule an appointment for the Patient on the same day that the request is made.
- (e) **Home or Office Visits.** Patient may request that Functional Family see Patient in Patient's home or office, and in situations where Functional Family considers such a visit reasonably necessary and appropriate, we will make every reasonable effort to comply with Patient's request.
- (f) **Visitors.** Family members* temporarily visiting a Patient from out of town may, for a two-week period, take advantage of the Services described in subparagraphs (a), (c), and (d) of this paragraph. Medical services rendered to Patient's visitors shall be charged on a fee-for-service-performed basis, subject to the terms and conditions of the Agreement between Patient and Functional Family.

***Family members who are Medicare beneficiaries must be covered by a Medicare Opt-out & Waiver Agreement in order to be treated by Functional Family.**

- (g) **Specialists.** Functional Family shall coordinate with medical specialists to whom Patient is referred to assist Patient in obtaining specialty care. 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 Functional Family medical practitioners.

Attachment C
Medicare Opt-Out & Waiver

I, _____ (hereinafter “**Beneficiary**”), who resides at _____

and possesses a Medicare ID of _____, do hereby represent and assert that I am a Medicare Part B beneficiary seeking services that may be covered under Medicare Part B pursuant to Section 4507 of the Balanced Budget Act of 1997.

Functional Family Medicine, LLC (hereinafter “**Functional Family**”) has informed me, the Beneficiary or his/her legal representative or legal guardian, that **Functional Family has opted out of the Medicare program effective on December 1, 2013, for a period of two (2) years, to expire on November 30, 2015. Functional Family is not excluded from participating in Medicare Part B under Sections 1128, 1156, or 1892 of the Social Security Act.**

The Beneficiary or his/her legal representative, legal guardian or power of attorney represents, warrants and expressly acknowledges and agrees to the following:

Initial

_____ Beneficiary or his/her legal representative or legal guardian accepts full responsibility for payment of Functional Family’s charge for all services furnished by Functional Family.

_____ Beneficiary or his/her legal representative or legal guardian understands that Medicare limits do not apply to what Functional Family may charge for items or services furnished by Functional Family.

_____ Beneficiary or his/her legal representative or legal guardian agrees not to submit a claim to Medicare or to ask Functional Family to submit a claim to Medicare.

_____ Beneficiary or his/her legal representative or legal guardian understands that Medicare payments will not be made for any items or services furnished by Functional Family that would have otherwise been covered by Medicare if there was no private contract and a proper Medicare claim had been submitted.

_____ Beneficiary or his/her legal representative or legal guardian enters into this statement with the knowledge that he/she has the right to obtain Medicare-covered items and services from physicians and practitioners who have not opted out of Medicare, and Beneficiary is not compelled to enter into private contracts that apply to other Medicare-covered services furnished by other physicians or practitioners who have not opted out.

_____ Beneficiary or his/her legal representative or legal guardian understands that Medi-Gap plans do not, and that other supplemental plans may elect not to, make payments for items and services not paid for by Medicare.

_____ Beneficiary or his/her legal representative or legal guardian acknowledges that Beneficiary is not currently in an emergency or urgent healthcare situation.

_____ Beneficiary or his/her legal representative or legal guardian acknowledges that a copy of this statement has been made available to him or her.

ACKNOWLEDGED:

By: _____

Date: _____

Printed Name: _____