

FIRST MD VIP

FirstMDVIP Concierge Medicine. Ranjit K Dhelaria, M.D. MRCP(UK)

Retainer Agreement

Background

The Physician, who specializes in Internal Medicine, delivers care on behalf FirstMD VIP, at the address set forth below. In exchange for certain fees paid by You, FirstMD VIP, through its Physician, agrees to provide Patient with the Services described in this Agreement on the terms and conditions set forth in this agreement.

This Retainer Agreement (the "Agreement") is entered into as of the ____ day of _____, 20____, and effective as of the ____ day of _____, 20____, between you the undersigned Patient ("You") and FirstMD VIP Concierge Medicine (the "Practice") under which the Practice will make certain health and wellness services, amenities and enhanced services available to you which are not otherwise covered by commercial insurance, managed care, Medicare and/or other third party payers. By voluntarily entering into this Agreement and remitting the Annual Retainer Fee (as set forth below), you may participate in the Practice's Concierge Medical Services Program (the "Program") for a period of twelve (12) months beginning on the Effective Date.

1. **The Program:** The Program's Annual Retainer Fee covers the following services and amenities provided by Ranjit K Dhelaria, M.D.as set forth below:
 - α. Annual Executive Health Assessment, more comprehensive than covered by third- party payers (including Medicare) as set forth in Exhibit A
 - β. Enhanced appointment availability (usually the same business day, but no later than the next business day)
 - γ. Personal appointment reminders
 - δ. No wait or minimal wait times for a physician appointment
 - ε. Increased physician appointment time
 - φ. Physician availability after hours by cell phone¹
 - γ. Secure e-mail communications
 - η. Coordination of specialist care and hospital services

The amenities include both non-healthcare service amenities and healthcare related services usually not covered by insurance. Other service amenities may be offered from time to time and these may be subject to limitations.

2. Annual Retainer Fee:

- a. Individual \$2,000 per year²

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You may elect to pay the Annual Retainer Fee on an annual or on a quarterly basis in advance of each quarter. If you elect to pay on a quarterly basis, each fee installment (\$500 per quarter per individual) will be automatically charged to your credit card on or following the first day of each quarter as set forth in the attached Exhibit B. We offer a 10% family discount when more than one individual living in the same household is enrolled in the Program.

3. **Renewals and Termination:** The term of this Agreement shall be one (1) year from the Effective Date and shall automatically renew for everyone (1) year period thereafter unless either party gives written notice of non-renewal at least thirty (30) days prior to the anniversary date of the Agreement. The terms and conditions of this Agreement may be changed with written notification to You. Failure to pay renewal of the annual membership fee prior to the anniversary of the Effective Date may result in termination of your membership in the Program.³ Either You or the Practice may terminate this Agreement with thirty (30) days written notice to the other party. If this Agreement is terminated after your Annual Health Assessment, the Annual Retainer Fee is nonrefundable. If terminated prior to your Annual Health Assessment, the Annual Retainer Fee is refundable on a prorated basis⁴

4. **Medical Care Services Excluded from Annual Retainer Fee:** Neither the Practice nor Dr. Dhelaria will seek reimbursement for the Annual Retainer Fee from any insurer, Medicare or other third-party payer for services provided that are included in the Annual Retainer Fee. You are solely financially responsible for payment of the Annual Retainer Fee and agree not to submit the Annual Retainer Fee to Medicare or your private insurance carrier, except for reimbursement from your health savings account ("HSA"), medical savings account ("MSA") or Flexible Benefits Account ("FBA"). Except for services provided as part of the Annual Health Assessment or provided as personal services, You and/or your insurer shall be financially liable for all other covered services provided by the Practice and/or Dr. Dhelaria and You or your insurer, as the case may be, will be billed for these other services.

5. **Co-Payments:** You remain financially responsible for all co-payments, co-insurance and/or deductibles as defined by the terms of your insurance coverage for provision of covered services.

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6. **Non-Participating Provider:** If You have insurance with which Dr. Dhelaria or the Practice does not participate, the Practice will file a claim with your insurance company as a courtesy only with respect to services that are provided other than as part of the Annual Health Assessment or as personal services. Under such circumstances, you will be responsible for an office visit charge.

7. **E-Mail Communications/Privacy:** You acknowledge that traditional e-mail is not a secure way for sending or receiving personal health information. If You choose to send confidential personal health information by non-secure e-mail, you specifically authorize Dr. Dhelaria or the Practice to reply with personally identifiable protected health information. Dr. Dhelaria will have sole discretion as to whether or not to reply to any e-mail communication and whether or not to open e-mail attachments. E-mails may become part of your medical record. You also acknowledge You will not use e-mail to seek an urgent appointment, ask questions about an urgent issue, or for any other time sensitive issue. If You have time sensitive issues, you must contact Dr. Dhelaria or the Practice by telephone or in person at his office. If Patient does not receive a response to an e-mail message within one day, Patient agrees to use another means of communication to contact the Physician. Neither FirstMD VIP, nor the Physician will be liable to Patient for any loss, cost, injury, or expense caused by, or resulting from, a delay in responding to Patient as a result 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 e-mail messages, (iii) failure of the Practice'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) your failure to comply with the guidelines regarding use of e-mail communications set forth in this paragraph

8. **Amendments and Waivers:** This Agreement may only be revoked, altered, amended or modified by the written agreement of both parties hereto. No waiver of any provisions of this Agreement shall be valid unless in writing and signed by the party against whom such waiver is sought. One or more waivers of any covenant or condition of this Agreement by any of the parties hereto shall not be construed as a waiver of any subsequent breach of the same provision or of any other covenants or conditions.

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9. **Section Headings:** Any section, section title or caption contained in this Agreement is for convenience only and in no way defines, limits or describes the scope or intent of this Agreement or any of the provisions hereof.

10. **Invalid Provisions:** The invalidity or unenforceability of any particular provision of this Agreement shall not affect any other provision hereof. This Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

11. **Entire Agreement:** This Agreement constitutes the entire understanding of the parties with respect to the subject matter outlined in this Agreement. The undersigned agrees to the terms and conditions of this Agreement and acknowledges there are no promises or representations except as specifically listed in this Agreement.

12. **Notices:** Notice from one party to the other shall be in writing and shall be deemed to have been duly given when delivered in person or sent via U.S. mail to the addresses listed in this Agreement.

13. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. If there is a change of any law, regulation or rule, federal, state or local, which affects the Agreement including these Terms & 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 these Terms & Conditions. If the parties are unable to reach an agreement concerning the modification of the Agreement within forty-five 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.

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14. **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
15. **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 FirstMD VIP, except that Patient shall initial any such change at FirstMD VIP’ 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.
16. **Assignment.** This Agreement, and any rights Patient may have under it, may not be assigned or transferred by Patient.
17. **Relationship of Parties.** Patient and the Physician intend and agree that the Physician, in performing his 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 work and the manner in which it is performed.
18. **Legal Significance.** Patient acknowledges that this Agreement is a legal document and creates certain rights and responsibilities. Patient also acknowledges having had a reasonable time to seek legal advice regarding the Agreement and has either chosen not to do so or has done so and is satisfied with the terms and conditions of the Agreement.
19. **Miscellaneous;** This Agreement shall be construed without regard to any presumptions or rules requiring construction against the party causing the

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instrument to be drafted. Captions in this Agreement are used for convenience only and shall not limit, broaden, or qualify the text.

I _____, agree to the terms and conditions herein. Patient Printed Name

I acknowledge that I understand the "Program", that this is not an insurance product and that I have been advised that I will need to continue my own health insurance. I have read and agree to the terms of the Practice's payment policies.

Patient Signature Date Acknowledged and accepted by the Practice:

FirstMD VIP Concierge Medicine

By: **Ranjit Dhelaria, M.D., CMO**

Date

¹With reasonable exceptions, i.e. limited cell phone or pager coverage/reception, dead batteries, electrical outages, etc. ²Annual Retainer Fee payment is due on enrollment and may be made by credit card or check made payable to FirstMD VIP Concierge Medicine. Quarterly payments are by credit card only. You must pre-authorize a credit card charge for the quarterly payment at time of enrollment in the Program.

³If terminating from the Program, you must sign a HIPAA compliant request to have your records transferred to your new physician. One copy of your records will be provided to your physician at no charge. Any additional copies of your records will be charged for at then current rates.

⁴Your failure to renew in the Program will be taken as your decision to immediately establish yourself with a new physician. Dr. Dhelaria will provide emergency care only for thirty (30) days after your termination from the Program. After this time, Dr. Dhelaria will no longer be responsible for any aspect of your medical care and you should see your new physician for all medical issues. You and/or your insurance company, as the case may be, will be responsible for any charges incurred for emergency care provided during this time. If you do not have insurance then you are entitled up to 4 additional visits per year (tele and in person) along with your executive physical.

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Exhibit 1

1. Medical Services. As used in this Agreement, the term Medical Services shall mean those medical services that the Physician, himself is permitted to perform under the laws of the State of Texas and that are consistent with his training and experience as a Internal medicine physician, as the case may be. Patient shall also be entitled to an annual in-depth “wellness examination and evaluation,” which shall be performed by the Physician, and include the following:

Executive annual physical exam which usually last over one hour
Health Risk Assessment, Vision and Hearing Screening, EKG (for age 40 and over)
Comprehensive age appropriate Lab Screening
Calcium score (for age 50 and over)
Psychosocial Screening
Advanced care Planning
Custom Wellness Plan to Include Exercise and Dietary Plan

The Physician may from time to time, due to vacations, 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 calls to the Physician, or to the Physician’s office, will be directed to a physician who is “covering” for the Physician during his absence. FirstMD VIP will make every effort to arrange for coverage but can not guarantee such coverage.

2. **Non-Medical, Personalized Services.** FirstMD VIP shall also provide Patient with the following non-medical services (“**Non-Medical Services**”):

(a) 24/7 Access. Patient shall have access to the Physician via instant messaging and video chat. Patient shall also have direct telephone and pager access to the Physician on a twenty-four hour per day, seven day per week basis. Patient shall be given a phone and pager number where patient may reach the Physician directly around the clock. During the Physician’s absence for vacations, continuing medical education, illness, emergencies, or days off, FirstMD VIP will provide the services of an appropriate licensed healthcare provider for assistance in obtaining medical 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 the Physician, however provider shall be contacted through an answering service rather than through a direct phone line.

(b) E-Mail Access. Patient shall be given the Physician’s e-mail 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. **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 Patient could reasonably expect may develop into an emergency.** Patient agrees that in such situations, when a

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Patient cannot speak to Physician immediately in person or by telephone, that Patient shall 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 assure that Patient is seen by the Physician immediately upon arriving for a scheduled office visit or after only a minimal wait. If Physician foresees 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 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 e-mails the Physician 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 the Physician on the following normal office day. In any event, however, FirstMD VIP 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 the Physician see Patient in Patient's home or office, and in situations where the Physician considers such a visit reasonably necessary and appropriate, he 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 three-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 basis.

(g) Specialists. FIRSTMD VIP Physician 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 the FirstMD VIP Physician.

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EXHIBIT 2

CONTROLLED SUBSTANCES ACKNOWLEDGEMENT FORM

Your Physician may prescribe certain controlled substances for You from time to time as she deems medically appropriate. However, Your Physician does not treat chronic pain and does not provide chronic pain management. As such, any controlled substances that may be prescribed to You will be prescribed on a limited, short-term basis. Should You require long-term, chronic pain management, Your Physician will refer You to a provider to treat Your chronic pain and/or will assist You in transferring Your care and treatment to the provider of Your choice.

By signing below, You understand and acknowledge that neither Your Physician nor the Practice provides long-term pain management/treatment services and that You will not be prescribed any controlled substances on a long-term basis. You further agree to inform Your Physician of all controlled substances that are prescribed to You by any other provider and acknowledge that this is an on-going obligation on Your part as a Patient of the Practice.

_____ Date: _____
Patient/Legal Representative Signature

Print Patient Name _____

_____ Relationship to Patient
Print Legal Representative Name

_____ Date: _____
Patient/Legal Representative Signature

Print Patient Name _____

Patients Initials: _____
