

# Diego A. Diaz, MD, PC



## FORM OF MEMBERSHIP AGREEMENT

This Membership Agreement (this “**Agreement**”), between you and **D. Diaz CCPHP, LLC** (the “**Company**”), sets forth the terms of your Membership in the Company’s “**Membership Program**.” The Agreement includes the Membership Handbook (the “**Handbook**”), accessible in the FAQ at [www.ddiazccphp.com](http://www.ddiazccphp.com), which should be read carefully because it includes important information about the terms of your Membership, including the details of the “**Enhancements**” that are referenced below. Please note that the Handbook is updated and revised from time to time and therefore you should review it from time to time to see if there have been any changes.

**1. The Role of the Company.** The Company works closely with your chosen physician or other appropriately licensed healthcare practitioner (your “**Practitioner**”), and your Practitioner’s medical practice (the “**Practice**”) to provide you with, or arrange to make available, the services and amenities listed in the Handbook (collectively, the “**Enhancements**”), which are designed to enhance your healthcare experience. To be clear, the Enhancements are not professional services and do not include items or services that are covered by health insurance plans. All professional services are provided by your Practitioner and the Practice. The Company does not engage in the practice of medicine or provide any diagnostic, therapeutic or clinical services; and no act or service required or permitted of the Company by any provision of this Agreement is intended, or should be construed, as constituting the practice of medicine under the laws of New York.

**2. You and Your Practitioner.** Your Practitioner will be your primary treating licensed healthcare professional for your internal medicine, and related service needs, and the Company has arranged for your Practitioner to generally be available to provide professional services to you and assist the Company in providing the Enhancements to you. Your Practitioner may not be available from time to time due to illness, continuing medical education obligations, customary vacation periods or similar reasons. During any such unavailability, your Practitioner will designate a covering physician or other licensed medical professional to attend to your medical needs. Nothing in this Agreement should be deemed or construed, and nothing herein is intended, to influence or affect your Practitioner’s or any covering practitioner’s independent clinical judgment as it relates to your care. Your Practitioner and all covering practitioners retain full and free discretion to exercise their professional medical judgment on your behalf.

**3. Membership Fee/Not Covered by Health Insurance.** By signing on to this Agreement and becoming a Member, you agree to the terms of this Agreement and you agree to pay the Company the annual Membership Fee set forth below. The Membership Fee pays the Company for providing you the Enhancements. It does not cover or pay for any professional services provided by your Practitioner or the Practice.

Because all professional services are performed by your Practitioner and the Practice, the Practice will separately bill you or your health insurance plan for their professional services.

The Practice currently participates with several health insurance plans, including Medicare, and where applicable, accepts payment from those plans as payment in full for professional services, subject to applicable deductibles, copayments and coinsurance.

You agree not to submit to your health insurer or health plan any bill, invoice or claim for reimbursement or payment with respect to the Membership Fee. You also agree that this Agreement is a service contract and not a contract of insurance. You acknowledge that you may, however, in your discretion, submit the Membership Fee for reimbursement to any flexible spending account, health reimbursement account or medical savings account of your employer in which you participate, but that the Company makes no representation that any part of the Membership Fee will qualify to be reimbursed from any such account.

Your annual Membership Fee is \$\_\_\_\_\_. All payments are due in advance of the period to be covered by the payment. You may pay the Membership Fee in one annual payment, two (semi-annual) payments, quarterly, or monthly. Payments are to be made to the Company by credit card or automatic debit from your bank account. You will select your method and timing of payment in the Payment Information section of this Agreement, below. Certain processing fees, as outlined in the Payment Information section, may apply.

The Company reserves the right to change the Membership Fee, following at least thirty (30) days' advance written notice.

#### **4. Email Communications and Text Messaging.**

You authorize the Company and its staff, including, the Practice and its staff and medical practitioners, including your Practitioner, to communicate with you by email and text messaging regarding your "protected health information" ("PHI") (as that term is defined in the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations) ("HIPAA") and other matters using the email address you provide in the Membership Agreement. In so agreeing, you acknowledge that:

- a. Email and text messaging are not a secure media for sending or receiving PHI and, accordingly, your emails or text messages may be read or otherwise accessed by a third party in transit. In particular, if you send or receive email through your employer's email system, your employer may have the right to review it;
- b. Although the Company, the Practice and your Practitioner will undertake reasonable efforts to keep email communications and text messages confidential and secure, neither the Company, nor the Practice, (including your Practitioner) can assure or guaranty the confidentiality of email or text messaging communications;
- c. In the discretion of the Practice and/or your Practitioner, email or text message communications may be made a part of your permanent medical record; and
- d. Email and text messaging are not an appropriate means of communication regarding emergency or other time-sensitive issues or for inquiries regarding sensitive information.

e. Accordingly, you also agree that:

i. You will not use email or text messaging to communicate regarding emergencies or other time-sensitive issues, or to communicate regarding other sensitive information, but rather will communicate such information through telephone calls or in person or properly encrypted emails;

ii. If you do not receive a response to your email or text message within two (2) days, you will use another means of communication to contact the Practice or your Practitioner;

iii. Except where otherwise required by law, neither the Company, the Practice, nor your Practitioner shall be liable to you for any loss, cost, injury or expense caused by, or resulting from: (a) a delay in responding to you as a result of technical failures, including, but not limited to, technical failures attributable to any internet service provider, power outages, failure of any electronic messaging software, failure to properly address email messages, failure of the Company's computers or computer network or faulty telephone or cable data transmission; (b) any interception of email communications by a third party; or (c) your failure to comply with the guidelines regarding use of e-mail or text messaging communications set forth in this Section; and

iv. The Practice may but is not obligated to keep copies of email or text messages that you send to your Practitioner, or your Practitioner sends to you, and your Practitioner may include such messages in your medical record.

f. By signing this Membership Agreement, and providing a telephone number to the Company, you agree that a representative of the Company can contact you at the number you provide, potentially using automated technology (including texts/SMS messaging) or a pre-recorded message.

5. **Term and Termination.** The initial term of this Agreement will begin on the “**Effective Date,**” which is the date on which your Membership Services begin pursuant to this Agreement, as confirmed by the Company following its receipt of a copy of the Agreement executed by you and your Membership Fee; provided that upon the Company's receipt of the executed Agreement and the Membership Fee, the Company retains the option, in its sole discretion, not to confirm the effectiveness of this Agreement (e.g., due to limitations on the number of Members) and to return your Membership Fee payment to you.

Unless this Agreement is otherwise terminated as provided herein, the initial term of this Agreement will be for one (1) year, commencing on the Effective Date (the “**Initial Year**”), and the Agreement will automatically renew for successive one (1) year periods (each, a “**Renewal Year**”), unless either party notifies the other party in writing, not less than thirty (30) days' prior to the expiration of the Initial Year or a Renewal Year (as applicable) of that party's desire not to renew this Agreement.

Unless the Agreement is sooner terminated, the Company will bill you, or charge your credit card on file, for any Renewal Year before the beginning of that year. You agree to pay the Membership Fee for each Renewal Year (or pay the initial installment for that year, as

applicable) within thirty (30) days following invoicing. Failure to pay the invoiced amount in a timely manner may result in termination of this Agreement.

Either party may also terminate this Agreement at any time for any reason upon thirty (30) days' prior written notice to the other party, delivered in the manner set forth in Section 4 of the Additional Terms section of the Handbook. If you terminate this Agreement, you will be refunded the pro-rata portion of any paid portion of your annual Membership Fee, minus an administrative fee of two hundred dollars (\$200) ("**Administrative Fee**"). Except as provided below, if the Company terminates this Agreement, you will be refunded the pro-rata portion of any paid portion of your annual Membership Fee, and no Administrative Fee will be due. Any pro-rated refund will be based on the number of days remaining in your Membership term (or payment period, as applicable). In the event of your death, this Agreement will immediately terminate. However, in the event that your Practitioner becomes unavailable for an extended period of time, the Company may seek to identify a replacement Practitioner as your Practitioner (at least temporarily) and not terminate this Agreement, in which case you will be entitled to terminate the Agreement and obtain a prorated refund as provided above, or continue the Agreement if the Company finds a replacement physician or practice team.

The Company will not be considered to be in breach of this Agreement for any failure or any delay in fulfilling its obligations hereunder caused, in whole or in part, directly or indirectly, by fires, natural disasters, strikes, government orders or directives, terrorist activities, health care emergencies or pandemics, or any other circumstance beyond the reasonable control of the Company. In no event will the Company be liable for consequential, incidental or special damages, or any other direct or indirect damages whatsoever regardless of the form of action, even if the Company has been advised or should have been aware of the possibility of such damages. In no event will the Company's liability to you for any claim, whether in contract, tort or any other theory of liability, exceed the Membership Fees paid by you.

Each Party agrees that electronic signatures obtained through a standard click-through process, whether digital or encrypted, of the Parties included in this Agreement are intended to authenticate this writing and shall have the same force and effect as manual signatures.

[Remainder of Page Intentionally Left Blank]

# Diego A. Diaz, MD, PC



I have read and understand this Agreement, including the Handbook, and agree to all of the terms.

Member Signature:	D. Diaz CCPHP, LLC
Printed Name:	By:
Date:	Title:

**Effective Date:** \_\_\_\_\_

*[NOTE: The CCPHP Member Advisor should fill in Effective Date in after they receive the signed Agreement from a Member. This is either (a) the agreed-upon "go live" date for concierge services or (b) date of signature, if signing post "go live" date]*

**Member Information**

Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_  
Address 1: \_\_\_\_\_  
Address 2 (e.g., apt.): \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**Payment Information**

Annual payment\*<sup>1</sup>  Semi-annual payment<sup>2</sup>  Quarterly payment<sup>3</sup>  Monthly payment<sup>4</sup>

<input type="checkbox"/> <b>Bank Account</b> (Bank Name):	<input type="checkbox"/> <b>Credit Card:</b>
Routing Number:	Name on Card:
Account Number:	Card Number:
	Security Code:
	Exp. Date:

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<sup>1</sup> Paid in full annually in advance, with no processing cost.

<sup>2</sup> Paid semi-annually with a 2.5% processing cost applied to each payment. Semi-annual installments will be charged automatically to the credit card or bank account on file in advance of the 6-month period to be covered.

<sup>3</sup> Paid quarterly with a 5% processing cost applied to each payment. Quarterly installments will be charged automatically to the credit card or bank account on file in advance of the 3-month period to be covered.

<sup>4</sup> Paid monthly with a 7.5% processing cost applied to each payment. Monthly installments will be charged automatically to the credit card or bank account on file in advance of the month period to be covered.