

## PRIVACY POLICY

### SleepImage

Date of Last Revision: May 15, 2020

MyCardio, LLC dba SleepImage (“MyCardio”, “we” or “us”) provides US Food and Drug Administration (FDA) cleared, Software as a Medical Device (“Technology”) that accepts data from certain recorder devices identified for use by MyCardio (collectively, the recorder device and the Technology referred to as the “Device”). The recorder device records certain information and data that is used with the Technology to aid clinical evaluation of sleep quality and sleep disorders, using this information or data independently or in combination with other data, for cardiopulmonary coupling (CPC) analysis, providing physiological data for the clinical analysis (“Sleep Data”).

The Technology is intended for use by or on the order of healthcare professionals (“Clinician Users”) to aid in the evaluation of sleep disorders and enable Clinician Users to provide Sleep Data information about individuals under their care (“Individuals”) for health and wellness via a web-enabled interactive platform (the “Platform”). We collect certain information via our website at [www.sleepimage.com](http://www.sleepimage.com), including, without limitation, any subdomains thereof and any related mobile applications (collectively, the “Site”). In order to access and use the Site or a Device, registration is required to create an account on the Platform (“Account”) for use by administrative users (“Admin Users”) and Clinician Users (the Admin Users and Clinician Users are referred to collectively as the “Users” and individually as a “User”) and Individuals under their care. The protection of each User’s and Individual’s information is a shared responsibility of MyCardio and each User that has access to or otherwise uses such information. MyCardio relies on Users also taking steps to protect the privacy of the information, including protecting all passwords and User credentials used to access the Platform or any Sleep Data stored locally on a Device.

This Privacy Policy (“Policy”) applies to information we collect from Users or that Users may provide to us, whether through the Device, the Site or otherwise, including personally identifiable information relating to Users and Individuals (“PII”), and our practices for collecting, using, maintaining, protecting and disclosing that information. This Policy applies to all User information collected or used by us, or provided by Users, whether such information results from use of the Device, registering for an Account, submitting information via the Platform or the Site, and in email or other messages between Users and the Site. It does not apply to information collected by any third party, including through any application or content that may link to or be accessible from the Site.

The notice of Privacy Practices Concerning Personal Health Information is a separate, companion document (referred to herein as the “Notice of Privacy Practices”). MyCardio and Users are required by applicable local law to maintain the privacy of Individuals personal health information. The supplier of Individuals personal health information is required to give the Individuals the Notice of Privacy Practices about our privacy practices, our legal duties and Individuals rights concerning Individuals personal health information. The supplier of Individuals personal health information must also follow the privacy practices that are described in the Notice of Privacy Practices.

This Policy is incorporated into and is subject to the MyCardio Terms of Use Agreement (the “Agreement”) and the Notice of Privacy Practices. Any use of the Site and any PII provided by Users or supplied on behalf Individuals on the Site remains subject to the terms of this Policy, the Agreement and the Notice of Privacy Practices.

Please read this Policy carefully to understand our policies and practices regarding User information and how we will treat it. If Users do not agree with our policies and practices, a User’s choice is not to use the Devices, the Site or the Platform. By accessing or using a Device, the Site or the Platform, Users agree to this Policy.

## **CHANGES TO OUR POLICY**

MyCardio reserves the right, in its sole and absolute discretion, to modify this Policy (in whole or in part) from time to time, and any such modification shall be immediately effective upon posting by MyCardio on the Site. The date this Policy was last revised is at the top of this page. If we make a material change to our Policy, we will provide notice to Admin Users (by email and/or posting on the Site) that our privacy practices have changed and will provide a link to the new policy. In the event we make a material change to how we use a User's PII, we will provide Admin Users with an opportunity to opt out of such new or different use. Each User is responsible for ensuring we have an up-to-date, active and deliverable email address for each Admin User applicable to such User, and for periodically visiting the Site and this Policy to check for any changes. MyCardio does not require Clinician Users or Individuals to provide an email to us for their use of the Site; it is therefore the Admin Users responsibility to notify all Clinician Users and Individuals assigned to their Account of what MyCardio notifies the Admin Users of through email. All Users continued use of a Device, the Site, or the Platform after we make changes is deemed to be acceptance of those changes, so please review this Policy regularly for changes and to ensure that Users fully understand the terms and conditions set forth herein. If Users have any questions concerning this Policy, please email MyCardio at [support@sleepimage.com](mailto:support@sleepimage.com).

## **PRIVACY PRINCIPLES**

We follow the following principles in order to protect User privacy:

- We do not collect any more PII about Users than we consider necessary as a prerequisite for using the full functions of the Platform;
- A User's PII is used for the purposes we specify in this Policy;
- We do not keep Users PII if we no longer deem it needed; and
- Other than as we specify in this Policy, we do not share Users PII with third parties.

## **TYPES OF INFORMATION WE COLLECT**

When Users visit, utilize the Device or, register for an Account or access the Platform, Users may provide us one or more of the following types of information: PII, including personal health information ("PHI"), and non-personally identifiable information, such as information about User's interaction with and use of the Site ("Usage Data").

## **PII and PHI**

Whether the Device is used by Clinician Users with Individuals under their care either for health or for wellness, PII is necessary for several reasons. First, the Device is an FDA-cleared Software as a Medical Device, which means that it can be available for use by Clinician Users and Individuals under their care. In addition, Individuals may direct MyCardio to share their PHI with their Clinician User via the Platform or vice versa, in which case we may ask that Users and Individuals provide certain PII to identify themselves.

When Users set up and register for an Account we may collect information such as:

- Name;
- E-mail address;
- Medical specialty;
- Location information.

Users may choose not to provide their PII; however, setting up and creating an Account is a prerequisite for using the full functions of the Platform.

Users may also enter information into the Platform about and on the behalf of the Individuals under their supervision and/or responsibility such as:

- Name;
- Email Address;
- Gender;
- Time zone location;
- Patient ID;
- Date of birth.

In addition, when a User's Account is used, we may collect the following types of PHI:

- Physiological data (including, but not limited to: Electrocardiogram; Plethysmogram; Heart Rate; Heart Rate Variability; Respiration)
- Accelerometer data;
- Oxygen Saturation (SpO<sub>2</sub>) data.

### **HEALTH INFORMATION PRIVACY**

PHI is entitled to special protections under the law, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). MyCardio makes the Notice of Privacy Practices available in accordance with the HIPAA Privacy Rule (a federal regulation officially known as the Standards for the Privacy of Individually Identifiable Health Information). The HIPAA Privacy Rule is distinct from MyCardio's Notice of Privacy Practices, which describes in detail User's and Individual's rights and MyCardio's obligations with respect to PHI that MyCardio may receive both online and offline. PHI is health information, including demographic information collected from an individual, and: (1) is created or received by a healthcare provider, health plan, or healthcare clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual, the provision of healthcare to an individual, or the past, present or future payment for the provision of healthcare to an individual, and (i) identifies the individual, or (ii) with respect to which there is a reasonable basis to believe the information can be used to identify the individual. Together, this Policy and the Notice of Privacy Practices describe how MyCardio uses a User's and Individuals' PHI. To better understand User rights and the rights of Individuals under HIPAA and our practices relating to PHI, please see MyCardio's Notice of Privacy Practices , available at [www.sleepimage.com](http://www.sleepimage.com).

The Site includes functionality that permits Users to make payment for certain products or services. We do not collect, access, view, or process User's credit card or debit card information. This information is transmitted directly to our third-party payment processor, which uses secure, industry-standard encryption technologies to protect User information. We do store a User's shipping address and information about a User's order history for customer service and quality reasons; and as a result, we may have access to a User's payment information.

**Usage Data.** In order to maintain and improve our services, we may collect non-personally identifiable Usage Data about how the Device, Platform, and Site is used. This information is collected by automated means including by using certain standard web measurement and tracking technologies such as "cookies," web server logs, or other statistics programs.

We may use cookies for things like:

- **Authentication:** to help us authenticate Users to deliver personalized content.
- **Security:** to protect Users, us, and others and help us detect fraud and other violations of the Agreement which can be found at [www.sleepimage.com](http://www.sleepimage.com).
- **Performance:** to make the Site or Platform easier and faster to use.

- **Features:** to enable features and store information about Users (including on the Device or in User’s browser cache) and use of the Device or the Platform or the Site.
- **Analytics and Research:** to monitor and evaluate the use of Devices, the Platform, or the Site.

A User’s browser may have an option that allows Users to accept cookies, reject cookies, or receive notification when a cookie is sent, but Users should note that the use of such restrictive browser settings may limit usability of the Site or the Platform or User’s experience. To the extent that we pair any of this Usage Data with a User’s PII, we will treat such Usage Data in accordance with this Policy.

Users may be able to opt out of third-party advertiser and ad network placement of cookies for targeted advertising.

Users may also be able to disable placement of some (but not all) cookies by setting their browser to decline cookies, though this may worsen the user’s experience. If Users delete their browser cookies, their opt-out cookie will also be deleted. Additionally, if Users change computers or web browsers, Users will need to opt out again.

We use the following cookies:

Cookie Name	Purpose
<b>Sid</b>	User session key

Finally, we may de-identify a User’s PII to make it anonymous and use it in an aggregate form, either alone or in combination with Usage Data to create reports about trends or analyses of treatments, disorders, or conditions, demographic information, and performance information about the Device. This type of information is referred to as “Aggregate Data” and has been de-identified in compliance with the U.S. Department of Health and Human Services’ Guidance Regarding Methods for De-identification of Protected Health Information in Accordance with the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule and does not identify Users personally. We reserve the right to share Aggregate Data with third parties, including for research or marketing purposes or to publish Aggregate Data in white papers, publications, or reports.

**HOW WE USE INFORMATION**

We use the information we collect in a several different ways for a variety of purposes, including:

- To provide, develop, maintain, operate, and improve our services, Devices, Platform, and the Site;
- To provide Users with information, products, or services that Users request from us, including to track and calculate Sleep Data supplied by users for the Individuals under the care of Clinician Users;
- To share Individuals PHI that is on the Platform with the Clinician Users;
- To send service messages and information about the services, Devices, Platforms, and the Site in which Users may be interested;
- To communicate with Users and respond to Users customer service inquiries;
- To communicate with Users about other products, services, and promotional events;
- To carry out our obligations and enforce our rights arising from any contracts entered into between Users and us, including for billing and collection;
- In any other way we may describe when Users provide the information; and
- For any other purpose with a User’s consent.

## **SHARING INFORMATION**

We may disclose Users information with our service providers, business partners, and others we use to support our business consistent with applicable law. However, if Users consent is required by law, or we believe that Users consent is appropriate in the circumstances, we will obtain Users consent before sharing Users PII. When we share Users information with business partners, our agreements with these partners will limit the purposes for which Users information can be used. We will not sell, rent or otherwise provide Users PII to third parties for their own purposes.

We only disclose and share a User's or Individuals' PHI under the circumstances described in this Policy or in the Notice of Privacy Practices which can be found at [www.sleepimage.com](http://www.sleepimage.com).

We may also share Users PII with our service providers, consultants, or related third parties in order to provide Users with the products and services Users request. For example, they may handle a User's Device orders, credit card processing, data management, email distribution, delivering the Device to Users, or providing Users with the Platform or Site as Users requested. The service providers to whom we disclose a User's PII are obliged to use such only to provide services to us and are not authorized by us to use or disclose Users PII except as necessary to perform services on our behalf, as specifically authorized by us or Users, or to comply with legal requirements.

We also may share Users information to comply with any court order, law, or legal process, including to respond to any government or regulatory request.

MyCardio expressly reserves the right to transfer any and all such information including, without limitation, PII, to a buyer or other successor in interest of MyCardio that acquires rights to that information in the event of a merger, divestiture, restructuring, reorganization, dissolution, or other sale or transfer of some or all of MyCardio assets.

## **DATA SECURITY**

MyCardio uses reasonable physical, administrative, and technical safeguards to preserve the integrity and security of PII. MyCardio attempts to restrict access to PII and PHI to those employees, agents, contractors, and representative who need access to perform their job functions, such as customer service personnel, technical and development staff and management. Please note that the electronic transmission of information is not completely secure. MyCardio cannot guarantee, ensure or warrant the security of any information transmitted to MyCardio. Any transmission of personal information is at a User's own risk. We are not responsible for circumvention of any privacy settings or security measures contained on the Site, or for information sent or provided to MyCardio relating to the Site, using any other communication methods such as phone or email. For any additional information about the security measures MyCardio uses relating to PII, PHI or other information relating to use of the Site, please contact MyCardio at [support@sleepimage.com](mailto:support@sleepimage.com).

The safety and security of Users information also depends on Users. Where we have given Users (or where Users have chosen) a password for access to certain parts of the Site, Users are responsible for keeping this password confidential at all times. We ask Users not to share their password with anyone and we recommend that Users change their passwords regularly.

## **HOW WE RESPOND TO DO NOT TRACK SIGNALS**

A User's web browser may let Users choose their preference as to whether to allow the collection of information about their online activities over time and across different websites or online services. At this time, the Site and Platform do not respond to the preferences Users may have set in their web browser regarding such collection of User's information, and the Services may continue to collect information in the manner described in this Policy.

## **INFORMATION FROM CHILDREN**

“We understand and take very seriously the importance of protecting the privacy and safety of children. CHILDREN UNDER THE AGE OF EIGHTEEN (18) ARE NOT PERMITTED TO CREATE THEIR OWN ACCOUNT. While we do not knowingly communicate with children under the age of eighteen (18) via the Site, we may collect PII of an individual under eighteen (18) years of age to the extent that (i) such individual has been registered under the care of a Clinician User with a registered Account and (ii) such individual’s parent or guardian has consented to the collection of PII of their child. Any parent or guardian who believes that PII of their child has been submitted to us without having given prior consent to the Clinician User may contact us at [support@sleepimage.com](mailto:support@sleepimage.com) to request that we take steps to delete the information as soon as possible.”

## **DATA TRANSFERS**

The servers from which we provide the Platform and Site, and to which all Sleep Data, PII, and PHI are sent, are located in the United States. If Users or the Individuals under their care are physically located within any region with laws or regulations governing PII collection, use, and disclosure that differ from United States laws, please be advised that Users are transferring PII and PHI to the United States and Users consent to such transfer and the application of the laws of the United States and/or the State of Colorado with respect to any dispute arising from or related to such transfer.

## **USER’S RIGHTS**

- Request a Copy of users PII. Users have the right to request a copy of any PII that we hold about the User. If Users would like a copy of their PII, please contact us using the contact information below. We may request proof of a User’s identity before sharing such information. If Users discover that the information we hold about Users is incorrect or out of date, Users may ask us to correct that information by contacting us using the contact information below.
- Cease Processing or Delete PII. Users may ask us to stop processing, or delete, the personally identifiable data we hold about Users and/or Individuals under their care in certain circumstances. It may not be possible for us to processing or delete all of the information we hold about Users where we are fulfilling a transaction or have a legal basis to retain the information, however please contact us to discuss how we can assist with a User’s request.
- Withdraw Consent. When we process Users information on the basis that you have consented to such processing, you have the right to withdraw your consent, or ask us to stop or restrict processing the PII we have about you, at any time by contacting us using the contact information below.
- Portability. You may also ask us to transfer your PII to a third party in certain circumstances. If you would like any further information about your rights or how to exercise them, please contact us using the contact information below.
- Complaints. If you are in the European Union, you have the right to make a complaint at any time to the relevant data protection authority in your country.
- Retention. We will retain Users information for as long as needed to fulfill User’s requests, provide User’s services, comply with our legal obligations, resolve disputes, and enforce our agreements.
- Unsubscribe. If Users receive marketing emails from us, Users can unsubscribe to our emails by clicking “unsubscribe” within each email. Users may not opt-out of service-related communications, which are not promotional in nature.

## **UNSUBSCRIBING, REMOVING OR MODIFYING USER’S INFORMATION.**

To edit or delete any information contained in User’s Account, please login and update the User profile. To

unsubscribe from an email or other messaging, please follow the instructions in any email or messages Users receive. Users may also send us an email at [support@sleepimage.com](mailto:support@sleepimage.com) to request access to, correct, or delete any PII that Users have provided to us. We may not accommodate a request to change information if we believe the change would violate any law or legal requirement or cause the information to be incorrect.

#### **CALIFORNIA RESIDENTS.**

California Civil Code Section 1798.83 permits Individuals who are California residents to request and obtain from us a list of what PII (if any) we disclosed to third parties for direct marketing purposes in the preceding calendar year and the names and addresses of those third parties. Requests may be made only once a year and are free of charge. Under Section 1798.83, MyCardio currently does not share any PII with third parties for their direct marketing purposes. To make such a request, please send an email to [support@sleepimage.com](mailto:support@sleepimage.com).

#### **OTHER TERMS AND CONDITIONS.**

In addition to this Policy, User's access to and use of any Device, the Platform, or the Site is subject to the Agreement which can be found at [www.sleepimage.com](http://www.sleepimage.com) including the disclaimer that MyCardio does not provide medical advice or information and only facilitates communication of Sleep Data for informational purposes between Individuals and their Clinician Users. INDIVIDUALS SHOULD ALWAYS CONSULT THEIR DESIGNATED CLINICIAN USER REGARDING THEIR SLEEP DATA AND ANY RELATED CONDITION. IN A MEDICAL EMERGENCY, ALWAYS CALL 911, IF YOU ARE LOCATED IN THE UNITED STATES OF AMERICA. IF YOU ARE LOCATED IN ANY OTHER COUNTRY, IT IS YOUR RESPONSIBILITY TO KNOW THE EMERGENCY NUMBER TO CALL. WE ARE NOT RESPONSIBLE FOR ANY HEALTH CONDITIONS OF ANY INDIVIDUALS OR USERS RELATED TO SLEEP DATA.

#### **QUESTIONS?**

If Users have any questions about this Policy or MyCardio's information practices, privacy while using the Device, Platform, or the Site, or wish to review or update your information, please contact MyCardio at:

Privacy Office (Legal Department) MyCardio  
3513 Brighton Blvd, Suite 530  
Denver, CO 80216, USA  
email: [support@sleepimage.com](mailto:support@sleepimage.com)

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