

TERMS OF SERVICE

Last Modified: 01/21/2023

These Terms of Service (the “**Terms**”) apply to your use of the Weightlist application (the “**App**”). All references to “us” (and similar words such as “we” and “our”) mean Bright MD Apps, LLC, a Kansas limited liability company. All references to “you” (and similar words such as “your”) mean the individual using the App.

By using the App, you are agreeing to these Terms and the other policies referenced in these Terms. If you do not agree to these Terms or the other policies, then you may not use the App.

Use of the App

License to Use the App

Subject to your compliance with these Terms, we grant you a limited, non-exclusive, non-sublicensable, non-transferable, and revocable license to access and use the App solely for your personal use.

Prohibited Uses

The App is only intended to be used by adults who have appropriate training in the medical profession and in general primary care medicine. This could include attending physicians, physician assistants, nurse practitioners, nurses, and students in the health profession. Laypeople, especially patients with no medical training, should not use the App. Additionally, the App is intended only for use by medical professionals within the United States, and not in other countries.

Additionally, you shall not directly or indirectly:

- Use the App for any illegal purpose or in such a way that would violate another contract.
- Resell or otherwise make the App available to third parties without our express permission.
- Use the App in any way that may harm the App, including without limitation using bots, scrapers, harvesters, or other automated systems.
- Take any action which constitutes reverse engineering, decompiling, disassembling, or otherwise attempting to discover the source code, object code, or underlying structure or algorithms, of the App.
- Attempt to use the App without our express permission after we have terminated your right to use the App.

User Accounts & Paid Services

User Accounts

We may allow you to create a user account (or we may create an account for you) to use the App. If you create (or accept) an account, then we may request information about you as described in these Terms and our Privacy Policy (for information on how we use that information, please review our Privacy Policy).

You are responsible for everything that happens through your account. You must keep your account credentials private and may not allow other people to use your account.

You may terminate your user account at any time, subject to the other provisions in these Terms.

Paid Services

Certain portions of the App may only be available to users that purchase the App or a subscription (if offered by us). We may allow trial periods and promotional uses of those paid portions and, if we do, we may change or terminate the same at any time, for any reason. Other than those trial or promotional uses, you will be required to pay the listed price, or subscription fees, to use the paid portions of the App. To the extent you purchase a subscription (if offered), you may terminate the subscription at any time, and we may terminate the subscription at any time. We do not issue refunds for App prices or subscription fees.

When making a purchase, you will be required to provide us (or the applicable app store) with your payment information. By providing us with that information and electing to make a purchase, you are authorizing us to charge your payment information for the applicable price or recurring subscription. If you purchase a subscription, you must ensure that your payment information remains accurate at all times during your subscription.

Intellectual Property

Our Property Rights

The App (including all design, software, code, and other content on the App) are either owned by us, licensed to us, or likely owned by another individual or business, and may be protected by copyright, trademark, patent, trade secret, or other intellectual property laws. Your use of the App does not grant any rights to you other than the right to use the App for their intended purpose as outlined in these Terms.

Warranties, Disclaimers, & Limitations of Liability

All references to “us” (and similar words such as “we” and “our”) in this section mean us and our parents, subsidiaries, affiliates, and licensors, and the owners, members, directors, officers, employees, contractors, and agents, of all of them.

- The services and advice you receive through the App do not constitute any kind of licensed counseling, therapy, medical, or health care advice. Your use of the App is voluntary and at your own risk.
- You must be proficient in the practice of medicine in order to use the App.
- You may refuse to use any information you receive through the App.
- The App is not a substitute for medical care or medical judgment. The App is not to be considered a comprehensive source of medical information.
- The App is offered on an “AS IS” and “AS AVAILABLE” basis without any representations or warranties of any kind.
- Without limitation, we do not represent or warrant that (a) the information on the App is free from error; (b) the functionality of the App will be uninterrupted, secure, or free of errors; (c) defects in the App will be corrected; (d) the medical information in the App is up to date or (e) that the App or the equipment the App use are free of viruses.
- To the fullest extent permitted by law, we disclaim all representations and warranties (express, implied, and statutory), including the implied warranties of merchantability, title, fitness for a particular purpose, accuracy of data, and non-infringement; and also all liability for identity theft and other misuse of your identity or content.
- We do not warrant, endorse, guarantee, or assume responsibility for, any product or service advertised or offered by a third party on the App, or for any other websites or applications

which are linked to or referenced in the App. If you use or purchase any such products or services, or if you click on any such links, you do so at your sole risk.

- We will not be liable to you or any third party for any indirect, special, incidental, consequential, cover, or punitive damages (including lost profits or revenues, loss of data, loss of use, or costs of obtaining substitute goods or services), arising out of or in connection to the App or any links provided on the App.
- All limitations of liability in these Terms will apply regardless of whether you or the third party bases your/its claim on contract, tort, strict liability, or any other legal theory, and whether we knew or should have known about the possibility of such damages.
- All limitations of liability in these Terms will apply to the fullest extent permitted by law.
- Subject to the limitations of liability in these Terms, our liability to you or any third party will not exceed the amount you paid for the App, or if the claim does not relate to a purchase, then \$100.
- Any cause of action or claim which you may have which arises out of or in connection to the App must be brought (if at all) within one year after the cause of action or claim accrued. Otherwise, such cause of action or claim will be permanently barred.
- All the foregoing limitations will apply even if a remedy fails of its essential purpose and to the fullest extent permitted by law.

Some jurisdictions do not allow certain disclaimers, limitations of liability, and exclusions. To the extent such jurisdictions' laws are applicable to your use of the App, such disclaimers, limitations of liability, and exclusions, will be limited to the extent permitted by the applicable law.

Indemnification

You shall indemnify us and our affiliates and the respective owners, directors, officers, managers, employees, contractors, and other representatives of each (the **"Protected Parties"**) against all reasonable expenses including attorneys' fees, costs, and damages of every kind (the **"Losses"**) arising out of any suit, claim, investigation, or proceeding, related to your use of the App, your breach of these Terms, your submission of content that violates third party rights or applicable laws, or your violation of applicable law, except to the extent that a Protected Party negligently or intentionally caused those Losses.

Arbitration

If a dispute arises between you and us related to your use of the App, these Terms, or our Privacy Policy, then the dispute shall be resolved by binding arbitration rather than in court (arbitration does not involve a judge or jury and court review of arbitration awards is limited). To initiate an arbitration, you must send a letter requesting arbitration and describing your claim to our registered agent on file with the Kansas Secretary of State. The arbitration proceedings shall be held in Kansas. If this agreement to arbitrate is found not to apply to your claim, then both you and we agree that any judicial proceedings will be brought in accordance with the governing law and jurisdiction/venue provisions below.

Notwithstanding the agreement to arbitrate above, either you or we may assert a claim seeking injunctive or other equitable relief from the courts as necessary to stop unauthorized use or abuse of the App or intellectual property infringement (for example, trademark, trade secret, copyright, or patent rights) without first engaging in arbitration.

CLASS ACTIONS ARE PROHIBITED: All claims, including all arbitration claims, must be brought on an individual basis and not as a plaintiff or class member in any purported class, consolidated, or representative proceeding. Class arbitrations, class actions, private attorney general actions, and consolidation with other arbitrations, are not allowed.

Miscellaneous

Termination

You may stop using the App at any time. However, you will remain liable for any damage you caused or may later cause to us or any part of the App. We may temporarily or permanently suspend your access to (or terminate your right to use) all or parts of the App (this includes our right to suspend access to or terminate your user account). We may exercise that right in our sole discretion, at any time, with or without notice to you. All provisions in these Terms which by their nature should survive termination of these Terms shall survive the termination.

Governing Law & Jurisdiction

Our provision of the App, your use of the App, these Terms, and our Privacy Policy, will all be governed by and construed in accordance with the laws of Kansas excluding its conflict of law principles. With respect to any dispute arising out of or related to any of the foregoing, each party consents to jurisdiction in, and the exclusive venue of, the state courts in Kansas, or if applicable, any U.S. District Court having jurisdiction over Kansas.

Waiver of Jury Trial

You and us each waive trial by jury in all actions, proceedings, or counterclaims brought by either party against the other on any matter arising out of or in any way connected to our provision of the App, your use of the App, these Terms, or our Privacy Policy.

Entire Agreement

These Terms set forth the complete and entire agreement between you and us relating to the subject matter in these Terms and supersede all other discussions, negotiations, proposals, and agreements, whether oral or written, previously discussed or entered into, by you and us relating to the subject matter in these Terms.

Waiver

The failure or delay by a party to exercise any right or remedy in these Terms shall not operate as a waiver of the same. The waiver by a party of a breach of any provision in these Terms shall not operate as a waiver of any subsequent breach. A waiver shall not be effective unless and until it is in written form and signed by the waiving party.

Severability

Each provision in these Terms shall be treated as separate and independent of the other provisions. Accordingly, if a court with competent jurisdiction declares a provision unenforceable, then the provision should be limited to the minimum extent necessary so that it remains enforceable. If such amendment is not possible, then the unenforceable provision should be deemed removed from these Terms, but the remaining provisions shall remain in full force.

Assignment

These Terms and all rights and licenses granted to you, may not be transferred or assigned by you, but may be assigned by us without restriction. Any attempted transfer or assignment by you will be null and void.

Power to Amend These Terms

We may amend these Terms at any time, for any reason, with or without notice to you. Your continued use of the App after the amended Terms are posted on the App constitute your acknowledgment and agreement to the amended Terms. However, to the extent the amended Terms materially alter your rights or obligations in these Terms, the amended Terms will become effective upon the earlier of (a) your continued use of the App with actual knowledge of the amended Terms; or (b) 30 days after the amended Terms are posted on the App.

Contact

Except as otherwise required in these Terms or by law, all notices and communications which you may send to us should be sent to brightmdapps@gmail.com.