

Terms of Use

These Terms of Use were last modified and are effective as of August 14, 2019

PLEASE READ THESE TERMS OF USE CAREFULLY. THEY DESCRIBE YOUR RIGHTS AND RESPONSIBILITIES AND FORM A LEGALLY BINDING AGREEMENT BETWEEN YOU AND US REGARDING YOUR USE OF OUR SITES. IF, FOR ANY REASON, YOU ARE UNABLE OR UNWILLING TO AGREE TO ALL OUR TERMS OF USE, YOU MAY NOT USE OUR SITES. YOUR CONTINUED USE OF OUR SITES MEANS YOU AGREE TO ALL THE TERMS AND CONDITIONS THAT ARE DESCRIBED OR REFERRED TO BELOW.

1. OVERVIEW.

Remedy Health Media, LLC (“RHM”, “we”, “us”, or “our”) operates the following list of healthcare, wellness and fitness-related websites: www.remedyhealthmedia.com, www.healthcentral.com, www.intelecare.com, www.thebody.com, www.thebodypro.com, www.healthafter50.com, www.healthcommunities.com, www.mood247.com, www.healthcommunitiesproviderservices.com, and www.berkeleywellness.com (individually a “Site”; collectively, the “Sites”). Unless otherwise expressly stated, these terms and conditions are the “Terms of Use” for the Sites and represent a legally binding agreement between you and us regarding your use of our Sites. Your legal agreement with us also includes our [Privacy Policy](#) and any other applicable terms and conditions that we disclose or notify you of when you use or attempt to use our Sites (“Additional Terms”). For example, when you sign up for the Mood 24/7 text messaging program, there may be Additional Terms which apply to that program.

Our Sites include all web pages within each Site and also include backup, mirror, replacement or substitute sites or pages we make available as part of the services we provide. We will refer to each and every feature, function, service, activity, promotion and content on our Sites, individually and/or collectively as “Content” and when we use the term “Site” it also includes Content unless we specifically say otherwise. Any terms used but not defined herein are defined in our Privacy Policy.

We may refer to you or any individual that uses our Sites as “you” or “your” or a “user.” If we use the term “RHM Entities,” in addition to us, that term means and includes our sponsors, affiliates, suppliers, promotional partners, operational service providers, agents and representatives.

When you see the word “use” or “using” we mean any time you, directly or indirectly, attempt to or actually do access, interact, display, view, browse, print, copy, transmit, receive or exchange data, messages, content or you otherwise communicate with us or anyone else, including another user, advertiser or any person, firm or business you may encounter on or through any of our Sites. We will also consider you to be using our Sites if you utilize, benefit, take advantage of or interact with any Content in, on or available through any of our Sites, for any purpose, or if you try to do any of these things.

If you use any of our Sites you agree and acknowledge that (i) you have read and understand the legal agreement you have with us, including these Terms of Use, our Privacy Policy and any Additional Terms; (ii) that unless you immediately stop using or trying to use all of our Sites, you will be signifying your agreement to be legally bound by and comply with all of the terms and conditions that apply to you under these Terms of Use; and (iii) you must be at least 18 years old or the age of majority in your jurisdiction, if different. If you are under the age of majority in your jurisdiction then you may only use the Sites with your parent or legal guardian’s permission. As set forth in our Privacy Policy, our Sites are not intended for children under the age of 13 and we do not knowingly solicit or collect Personal Information (as that term is defined in the Privacy Policy) from children under the age of 13.

2. HEALTH INFORMATION DISCLAIMER.

The Content on our Sites is presented in a summary fashion, and is intended to be used for informational purposes only. The Content is not intended to be and should not be interpreted as a recommendation for a specific treatment plan, product, course of action or medical or healthcare provider. Your use of our Sites does not create a doctor / patient relationship. RHM IS NOT A HEALTH CARE PROVIDER. OUR SITES DO NOT OFFER MEDICAL ADVICE AND NOTHING CONTAINED IN THE CONTENT IS INTENDED TO CONSTITUTE PROFESSIONAL ADVICE FOR MEDICAL DIAGNOSIS OR TREATMENT. You should not use our Sites to diagnose a health or fitness problem or disease. Use of our Sites does not replace medical consultations with a qualified health or medical professional to meet the health and medical needs of you or any other party. We disclaim all responsibility for the professional qualifications and licensing of, and services provided by, any physician or other health provider referred to on our Sites and/or any Third Party (as defined in our Privacy Policy) website. Never disregard the medical advice of a physician or health professional, or delay in seeking such advice, because of something you read on our Sites. Although we strive to ensure that the information we provide on our Sites is correct, we cannot guarantee that it is always accurate and up-to- date. We offer our Sites AS IS and without any warranties.

3. WE CAN CHANGE OUR SITES AND OUR TERMS OF USE.

We reserve the right, at any time and from time to time, for any reason in our sole discretion, to add to, delete or modify any or all the terms of the Terms of Use that apply to you, as well as any of our Sites and/or any Content. We display the effective date of these Terms of Use at the top of this page. If you use any of the affected Sites after the changes become effective, it means you are agreeing to be bound by the changes. You should check on a regular and frequent basis and review the terms and conditions that apply to you so you are aware of the current rights and obligations that apply to you.

4. PRIVACY.

Our Privacy Policy is available on this Site, and by accessing any of our Sites, you are agreeing to be bound by the Privacy Policy. The Privacy Policy and any Additional Terms, along with the Terms of Use, form a part of our agreement with you. Read our Privacy Policy carefully since it

describes, among other things, how we collect and use information we obtain when you use our Sites.

5. OWNERSHIP OF CONTENT AND LICENSE TO YOUR CONTENT.

Each of our Sites and, except as described below, all Content, are either the property of RHM or the property of our licensors, third party authors, developers, operational service providers, advertisers, vendors, or users (collectively, "Third Party Providers") and are legally protected, without limitation, under U.S. federal and state laws and regulations, as well as applicable foreign laws, regulations and treaties. To avoid any doubt, when we use "Content" it includes, but isn't limited to, such things as software, code, design, text, images, photographs, illustrations, animations, audio, video and audio-visual material, art, graphic material, proprietary information, data, databases, service marks, trademarks, trade names, distinctive identification such as logos, the selection, sequence, "look and feel" and arrangement of items and all copyrightable or otherwise legally protectable elements of any and all of our Sites. All product names, company names, marks, logos, and symbols may be the trademarks of their respective owners.

You keep ownership to any and all Content that is yours and if you submit or provide Content to any of our Sites, these Terms of Use do not deprive you or any holder of your or their rights. However, when you do submit or provide Content to us or any of our Sites, you are giving us an unconditional, irrevocable, transferable, royalty free worldwide license to use, display, reproduce, perform, adapt, translate, modify, create derivative works, publish, distribute, disseminate and/or broadcast that Content ("license") and you are representing and warranting to us you have all necessary rights, consents, and/or permissions to give us such license. If you do not have the right to license Content to us (or if you are not sure), do not submit or provide Content to us.

You may only use our Content and Content of Third Party Providers for your own personal use and you have no right to transfer, assign or use the Content for any other purpose or allow or enable anyone else to do so. Personal use excludes all commercial or charitable functions, whether or not money or other consideration is involved, whether or not it is for your benefit or for someone else. You may not use, display, reproduce, perform, adapt, translate, modify, create derivative works,

publish, distribute, disseminate and/or broadcast Content that is not yours without our express prior written consent. You may not alter, delete or conceal copyright or other notices, even if we let you download, display, print or share the Content with others. Unauthorized or prohibited use of Content may subject you to civil liability, criminal prosecution, or both under federal, state and local laws. Notwithstanding the foregoing, please also see Section 7 in our Privacy Policy entitled “Your Rights” for a description of how you may protect your Personal Information.

6. POSTING.

Some or all of our Sites may allow you to register, create a profile or account and enable you to submit, provide, furnish, transmit, exchange, communicate and/or display Content (referred to as “Posting” or “Postings”). By Posting, you represent that you own or have the right to engage in the Posting and you specifically agree your Posting shall not violate any law or regulation, our Terms of Use or the rights of others. In addition, by registering or creating a profile or account, you may be automatically subscribed to receive certain email notifications and Content from us (“Automatic Communications”), or we may give you the option to select and receive certain email notifications and Content from us (“Voluntary Communications”). You will always have the option to unsubscribe from Voluntary Communications and promotional Automatic Communications. For details, see Section 7.2 in our Privacy Policy entitled “Opting-Out of Promotional Emails.” You are solely responsible and liable for any Postings made under your user ID, name, e-mail address, password and/or your registration, subscription and/or profile information. Postings do not reflect our views and we do not represent or warrant the truthfulness, accuracy, or reliability of any Posting, nor do we endorse or support any opinions or ideas expressed in any Posting. Unless and until you notify us that you know or suspect the security of your user identification, login and password may have been compromised, so are Postings made by anyone else if they are using your registration, profile, user account or login identification or password and you will defend and indemnify us (See the section entitled “YOU INDEMNIFY US” below) for any such Postings. If you determine or suspect someone using your user identification or login and password, please notify us immediately at:

privacy@remedyhealthmedia.com.

7. USAGE RULES.

We reserve the right to deny you access to any and all parts of our Sites for any reason, and at our sole discretion. We do not assume any responsibility to monitor the Postings on our Sites for accuracy or unacceptable use, nor will any Posting be authenticated or endorsed by us. We encourage you to report offensive or illegal content by contacting us at compliance@remedyhealthmedia.com and we reserve the right to block transmission of, and or remove any Posting that you make for any reason, and without prior notice to you. Without limiting the generality of the foregoing, you expressly acknowledge and agree any Postings that you make to our Sites are not confidential and that the following rules shall apply to your use of our Sites.

You may never use, allow or enable others to use our Sites or knowingly condone use of our Sites to do or attempt to:

- violate any laws, regulations, judicial or governmental order, treaties or our rights or the rights of any other person, firm or enterprise;
- engage in conduct which is libelous, defamatory, indecent, vulgar, obscene, pornographic, sexually explicit or sexually suggestive, racially, culturally or ethnically offensive, harmful, bullying, harassing, intimidating, threatening, hateful, objectionable, discriminatory or abusive;
- impersonate any other person, firm or enterprise or any of our or their employees and agents or otherwise use any fake, false, or fictitious names or profiles, or ;
- use our Sites for Posting or otherwise using malicious or unauthorized code, (e.g., viruses, time bombs, cancel bots, worms, Trojan horses, spyware) or other potentially harmful material or information or in any way interrupt, damage, interfere with, destroy or limit the functionality of any computer software or hardware or communication equipment, including our Sites;
- gain unauthorized use of our Sites, other users' accounts, names, login or password information, Personal Information or use our Sites in any manner which violates or is inconsistent with the provisions or spirit of our Terms of Use;
- modify, disrupt, impair, alter or interfere with the use, features, functions, operation or maintenance of our Sites or the rights or use and enjoyment of our Sites by any other person, firm or enterprise;

- collect, obtain, compile, scrape, frame, gather, transmit, reproduce, delete, revise, view or display the Site, the Content, or any material or information, whether personally identifiable or not, submitted, provided or made available by or concerning any other person, firm or enterprise;
- engage in any activity or fail to report any activity involving SPAM, junk e-mail, chain letters, duplicative or unsolicited messages, or so-called “spamming” and “phishing” or other similar schemes; or
- use our Site or any Content for commercial or business purposes, including advertising, marketing, selling or offering goods or services, whether or not for financial benefit or any other form of compensation or consideration or through linking with any other website or web pages; or
- use any robot, spider or other automated means to access, scrape, harvest, or mine our Sites, the Content, or the services for any reason without our prior written consent.

8. REVIEW OF POSTINGS.

We reserve the right to remove, reject, or delete any Postings made to the Site, but we assume no responsibility for doing so or monitoring Postings. We do not and cannot review all Postings made to the Site and are not responsible for such Postings, regardless of whether at any time we choose in our sole discretion, to monitor or remove Postings on our Sites.

9. TRADEMARKS.

Unless otherwise disclosed, all of the trademarks, service marks, and logos displayed on our Sites (the “Trademarks”) are registered and unregistered trademarks of RHM, its affiliates, or Third Party Providers. Nothing on our Sites should be construed as granting, by implication, estoppel, or otherwise, any license or right in and to the Trademarks without our express written permission or the express written permission of the applicable third party. Except as expressly provided in these Terms of Use, any use of the Trademarks is expressly prohibited.

10. PROCEDURES FOR CLAIMED COPYRIGHT INFRINGEMENT.

We respect the intellectual property rights of others, and ask that you do the same. If you believe that your work has been copied in a way that constitutes copyright infringement, in accordance with the Digital Millennium Copyright Act, please provide the following information to our agent: (a) an electronic or physical signature of the person authorized to act on behalf of the copyright owner; (b) a description of the copyrighted work that you claim has been infringed; (c) a description of where the material you claim is infringing is located on the Site; (d) your address, telephone number, and email address; (e) a statement that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and (f) a statement made by you, under the penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or duly authorized to act on the copyright owners behalf. Our agent may be contacted as follows:

Remedy Health Media, LLC
750 Third Avenue, 6th Floor New York, NY 10017 Attn: Office of
Compliance e-mail: compliance@remedyhealthmedia.com Tel: (212)
695-2223

11. INDEMNIFICATION.

By using our Sites, you agree to defend any or all of the RHM Entities against any demands, claims or actions arising out of or as a result of: (i) your breach or violation of our Terms of Use; (ii) your use of the Site or Content; (iii) any violations of law and regulation; and (iv) claims of infringement, misappropriation or violation of the rights of others in connection with your Postings (“Claims”). You shall indemnify and hold the RHM Entities harmless from and against any and all losses, damages, costs and expenses, including attorneys’ fees, resulting from any such Claim. We have the right, at any time, to assume the defense against any Claim and all negotiations for settlement and compromise and you agree to cooperate with us in any such defense. When we use the phrase “you will defend and indemnify us” anywhere in our Terms of Use, it means and refers to the foregoing provisions of this section of our Terms of Use.

12. DISCLAIMER OF WARRANTIES; LIMITATION OF LIABILITY.

ALTHOUGH WE MAY UPDATE THE CONTENT ON OUR SITES FROM TIME TO TIME, PLEASE NOTE THAT MEDICAL AND FITNESS INFORMATION CHANGES RAPIDLY. THEREFORE, SOME OF THE INFORMATION MAY BE OUT OF DATE AND/OR MAY CONTAIN ERRORS OR INACCURACIES. YOU RELY ON THE INFORMATION AT YOUR OWN RISK. OUR SITES AND THE CONTENT ARE MADE AVAILABLE "AS IS" AND "AS AVAILABLE", WITHOUT ANY REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF TITLE, NON--INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THERE IS NO GUARANTY OR ASSURANCE THAT ALL OR ANY PART OF OUR SITES WILL BE AVAILABLE FOR USE, PERFORM AS DESCRIBED OR THAT OUR SITES AND THE CONTENT ARE ACCURATE, TIMELY, COMPLETE OR ERROR FREE AND YOU SHOULD NOT RELY ON OUR SITES OR ANY CONTENT FOR ANY DECISIONS OR ACTIONS YOU MAY OR MAY NOT CHOOSE TO MAKE OR TAKE. WE ARE NEITHER RESPONSIBLE NOR LIABLE FOR ANY DAMAGE TO YOU OR YOUR PROPERTY, LOSS OF DATA, INABILITY TO ACCESS OR USE THE SITES OR THE CONTENT, EVEN IF DUE TO MALICIOUS OR UNAUTHORIZED CODE. YOU ARE SOLELY RESPONSIBLE FOR ENSURING YOU HAVE APPROPRIATE MECHANISMS TO PROTECT AND SECURE YOUR EQUIPMENT, PROGRAMS AND INFORMATION BECAUSE YOU, NOT US, ARE ASSUMING ALL RISK OF LOSS OR DAMAGE THAT MAY ARISE OR BE ASSOCIATED WITH USE OF OUR SITES. TO THE FULLEST EXTENT PERMITTED BY LAW, WE DISCLAIM ALL LIABILITY FOR LOSS, DAMAGE, COST AND/OR EXPENSE OF ANY KIND IN CONNECTION WITH OR ARISING FROM USE OF OUR SITES, OUR TERMS OF USE, INCLUDING, BUT NOT LIMITED TO, DIRECT, COMPENSATORY, CONSEQUENTIAL, INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY AND PUNITIVE DAMAGES, REGARDLESS OF THE FORM OF ACTION OR BASIS OF THE CLAIM AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. SOME JURISDICTIONS DO NOT ALLOW EXCLUSIONS OF CERTAIN WARRANTIES OR LIMITATIONS ON CERTAIN DAMAGES, SO SOME OF THESE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU. IF ANY LIMITATION OR EXCLUSION OF DAMAGES OR LIABILITY IS PROHIBITED OR RESTRICTED BY LAW, WE SHALL BE ENTITLED TO THE MAXIMUM LIMITATIONS AND EXCLUSIONS PERMITTED; HOWEVER, IN NO EVENT SHALL OUR TOTAL LIABILITY TO YOU EXCEED ONE HUNDRED DOLLARS (\$100).

13. THIRD PARTY LINKS.

Our Sites may contain links to or advertisements for websites operated by Third Parties. The links to and advertisements concerning Third Party websites are provided for your convenience only. We do not control such third party websites and we are not responsible for the content and performance of these third party websites or for your transactions with them. Our inclusion of links to or advertisements for such Third Party websites does not imply any endorsement of the material, products or services on such third party websites or any association with their operators.

14. GEOGRAPHIC DISCLAIMER.

Our Sites are intended for users who are U.S. residents. Access to our Sites and the Content may not be legal for some persons or in some countries outside the United States. If you elect to access and use our Sites and Content from outside of the United States, you do so at your own risk and are solely responsible for complying with all applicable laws and regulations.

15. CHOICE OF LAW.

Our Terms of Use shall be construed and enforced under the laws of the State of New York applicable to parties resident in and contracts made, executed and wholly performed within the State of New York. You specifically agree and submit to the jurisdiction of the State and Federal Courts situated in the State, City and County of New York and you will not object to jurisdiction or venue on the grounds of lack of personal jurisdiction, inconvenient forum or otherwise. The Uniform Computer Information Transactions Act does not apply to our Terms of Use. IN ANY ACTION OR PROCEEDING COMMENCED TO ENFORCE ANY RIGHT OR OBLIGATION UNDER THIS AGREEMENT, YOUR USE OF OUR SITES OR WITH RESPECT TO THE SUBJECT MATTER HEREOF, YOU HEREBY WAIVE ANY RIGHT YOU MAY NOW HAVE OR HEREAFTER POSSESS TO A TRIAL BY JURY.

16. MISCELLANEOUS.

Our Terms of Use, together with our Privacy Policy and any Additional Terms that apply to you constitute the entire agreement you have with us

regarding our Sites, Content and other subject matter set forth herein and supersede any and all prior or inconsistent understandings that may apply to the subject matter. If, for any reason, we believe, have reason to believe, suspect or are notified of any act, omission or circumstances which may or could compromise or endanger the health, well-being or safety of any person, cause or lead to damage to persons or property (tangible or intangible), adversely affects, infringes upon or misappropriates the rights of others, harasses or interferes with any other user or person, firm or enterprise, interferes with or bypasses our security or other protective measures applicable to our systems, networks and communications capabilities, breaches or violates our Terms of Use, Privacy Policy, Additional Terms, our Sites, Content or violates any law or regulation, we have the right, reserving cumulatively all other rights and remedies available to us at law, in equity and under our agreement with you, to report and provide information to any and all regulatory and law enforcement authorities and agencies and take any action permitted by law.

17. SEVERABILITY.

The illegality, invalidity or unenforceability of any term or condition is severable and shall not affect the rest of the Terms of Use. Headings are purely for reference and shall not affect the meaning of any term or condition. Any provision which must survive to allow us to enforce its meaning shall survive termination.

18. ASSIGNMENT.

We may assign our rights and duties under this agreement to any party at any time without notice to you. You may not assign this agreement to anyone else.

19. WAIVERS OF CERTAIN LEGAL RIGHTS.

You agree that you will only sue us as an individual. You agree that you will not file a class action, or participate in a class action. You and we agree that any dispute between us can only be brought in binding individual (non-class) arbitration to be administered by the American Arbitration Association (“AAA”). If, for any reason, AAA is not available, you or we may file our case with any national arbitration company. No claim or action relating in any way to this Terms of Use, our Privacy

Policy, Additional Terms, our Sites, Content or otherwise with respect to the subject matter, regardless of form or the basis of the claim, may be brought by you more than one (1) year after the cause of action has arisen (or if multiple causes, from the date the first such cause of action arose).

20. NOTICE.

We may deliver notice to you under this agreement by means of electronic mail, a general notice on the Site, or by written communication delivered by first class U.S. mail to your address on record in your account information, if any. You may give notice to us at any time by letter delivered by first class postage prepaid U.S. mail or overnight courier to the following address:

Remedy Health Media, LLC 750 Third Avenue, 6th Floor New York, NY 10017 Attn: General Counsel

21. CONTACT US.

If you have any questions about our Terms of Use, please contact us at:

legal@remedyhealthmedia.com

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