

Introducing the New “OSCAR EMR Affiliated Product Terms of Use Agreement” (January, 2015)

OSCAR EMR is introducing a new “OSCAR EMR Affiliated Product Terms of Use (TOU) Agreement” that offers improved clarity and addresses questions received from physicians regarding release and indemnity provisions.

Highlights

- The TOU is the means by which physicians register their OSCAR software as an Affiliated Product within the scope of regulatory compliance managed by OSCAR EMR and, thereby, receive the corresponding benefits (including eligibility for EMR Funding from OntarioMD for OSCAR as a Funding Eligible Offering). **The TOU does not change or replace the terms of the open-source license under which OSCAR has been made available since 2001.** Rather, the TOU explains the terms under which an OSCAR user receives, uses and shares in the costs of sustaining OSCAR as free open-source software that is also compliant with regulatory requirements (e.g. Canada Health Infoway certification; Ontario EMR Specification 4.1A, etc.).
- OSCAR EMR operates within a unique, not-for-profit model and derives no profit from the use of OSCAR software. The Certification Fees included in the TOU go towards the shared cost of the OSCAR community’s effort to maintain regulatory compliance for everyone’s benefit.
- A foundational premise of OSCAR, as reflected in the open-source license, is that each user of the software accept all responsibility and risk for her or his own use of this shared community good. Likewise, **it was always the intention that the release and indemnity provisions of the TOU relate only to the physician’s/clinic’s own use of OSCAR.**
- **To ensure greater clarity, OSCAR EMR has removed the indemnification provision,** noting OSCAR’s longstanding open-source license addresses third-party claims and OSCAR EMR can insure against any remaining risks, the cost of such insurance becoming a component of OSCAR EMR’s ongoing expenses which are covered, in part, by Certification Fees.

Effective April 15, 2015 (Effective Immediately if Preferred by Physician)

The new TOU will replace the current version on April 15, 2015. Until that date, physicians will have the choice to sign the current version or the new one. Anyone who signs the current version up until April 15th will receive OSCAR as an Affiliated Product in accordance with the terms and Certification Fees of the current TOU, and the TOU will remain in effect unless terminated per relevant provisions.

As of April 15th and going forward, completion of the new TOU will be required for physicians wishing to register their OSCAR software as an Affiliated Product of OSCAR EMR.

OSCAR EMR and McMaster University remain committed to the foundational proposition of OPEN SOURCE OSCAR software enriched and sustained by all users for the benefit of all users who are, together, seeking to continuously improve health and health systems. For more information, or if you have any questions, please contact OSCAR EMR (info@oscar-emr.com).