Dragon Medical Practice Edition Licensing Information

\$ speakeasysolutions.com/blog/2012/01/17/dragon-medical-practice-edition-licensing-information

By Alexandria

Prior to the release of the <u>new version of Dragon Medical</u> there was some confusion as to the licensing details of this software.

Since the new version, released in Autumn 2011, there have been more questions.

Hopefully the following will clarify, in very simple terms, how the licensing of Dragon Medical Practice Edition works.

Dragon Medical Practice Edition is Licensed Per User

As it always has been, Dragon Medical is still licensed per user, and not per machine/computer. This is an extremely fair licensing arrangement and takes into account the reality that most physicians have a main PC, a notebook, a home computer or may have several exam rooms.

Another example would be a three physician clinic, sharing six exam rooms, but each with their own office as well. Dragon Medical can be installed on each of the three physician's office computer plus each exam room (that's nine computers total), after purchasing three licenses.

In some cases, not every physician in a clinic will wish to use Dragon Medical. If that is the case, they simply ignore the Dragon Medical software on any computer that they are using. However, should they, in future, wish to use Dragon Medical, they will be required to purchase their own license of Dragon Medical, even if it's already installed on a computer that they are using. It's likely they will wish to install Dragon Medical on their personal computer(s) as well.

A Proofreader's Need to Use Dragon Medical Falls Under the Physician's License

In some scenarios, a proofreader (MOA, secretary, assistant) will proofread a physician's dictation with Dragon Medical.

The physician may dictate into MS Word, and save their voice with the resulting dictation to the server. The proofreader, with Dragon Medical installed on their computer, will open the MS Word file with voice attached and perform the necessary proofreading. While the



January 17, 2012 proofreader is not actively using Dragon Medical by voice themselves, they are loading the physician's Dragon user profile in order to make corrections and edits. This license falls under the physician's license and therefore an additional Dragon Medical license is not required.

Again, if a proofreader is performing proofreading tasks using a physician's Dragon user profile, the license used is associated with the physician's Dragon Medical license.

If, however, a proofreader desires to use Dragon Medical with their own user profile, they will require their own license.

Dragon Medical Practice Edition Allows for Four (4) Installations

Dragon Medical version 10 and previous allowed the user to have up to 10 concurrent installations. The new version, Dragon Medical Practice Edition, permits up to four concurrent installations — this includes an installation that may be required by a proofreader.

If you are retiring a computer or no longer require Dragon Medical on a specific computer, ensure that you uninstall Dragon Medical from that computer to effectively de-register that license's use so that it may be installed on another computer. Every time Dragon Medical is installed or uninstalled, Nuance records the computer(s) associated with that license's installation.

About Speakeasy Solutions

Based in Vancouver, BC, Speakeasy Solutions Inc. provides <u>Dragon Medical</u> <u>software/licenses</u>, along with <u>support</u> and <u>training</u> services across Canada from Victoria, BC to St. John's, NL. We are in our 12th year of assisting <u>physicians</u>, expertly utilize this amazing software that aids in EMR adoption and streamlining office efficiencies.

- <u>Contact us</u> any time for your Dragon Medical Practice Edition speech recognition needs.
- Learn more about Dragon Medical Practice Edition.
- Read the <u>PC minimum specifications</u>.
- Place an <u>Order</u>.

Dragon Medical EULA (End User License Agreement)

Dragon Medical Practice Software License

Nuance Communications, Inc.

DRAGON MEDICAL ("Software")

END USER LICENSE AGREEMENT

IMPORTANT-PLEASE READ CAREFULLY: Your acceptance of the terms of this End User License Agreement ("Agreement") is required before your use of the Software. This Agreement is between you (either an individual or a single entity, hereinafter referred to as "Licensee" or "you") and Nuance Communications, Inc. (collectively, "Nuance"). BY OPENING THE SEALED SOFTWARE PACKAGE AND/OR BY INSTALLING OR OTHERWISE USING THE SOFTWARE, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, DO NOT INSTALL OR USE THE SOFTWARE, and present your receipt or other proof of purchase, together with the Software Package, to the entity from which you obtained the Software Package within 30 days to request a refund. THIS AGREEMENT IS ENFORCEABLE AGAINST ANY PERSON OR ENTITY (E.G., SYSTEM INTEGRATOR, CONSULTANT OR CONTRACTOR) THAT INSTALLS OR USES THE SOFTWARE OR ANY COMPONENT OF THE SOFTWARE PACKAGE ON ANOTHER PERSON'S OR ENTITY'S BEHALF.

THIS IS A LICENSE TO USE SOFTWARE AND NOT A SALE OF SOFTWARE CODE.

Your rights under this Agreement may be subject to additional terms and conditions in a separate written software license agreement with Nuance or with any of Nuance's authorized resellers, intended to govern the use of the Software Package, which supplements or supersedes all or portions of this Agreement.

Definitions

"Authorized User" means an employee or contractor of Licensee who is permitted to access and use the Software subject to the terms and restrictions contained in this Agreement.

"Authorized User License" means Licensee's limited right to allow a single employee or contractor (for each such license purchased, as indicated in the Order) to use the Software in a manner commensurate with its intended use.

"Device" means a personal computing device as specified in the accompanying Documentation.

"Documentation" means the user manuals and/or technical publications, as applicable, supplied with the Software in printed or electronic form, relating to the installation, use and administration of the Software.

"License Duration" means the duration of the license grant specific to a particular Software license, which duration is either a Perpetual License or a Term License.

"Maintenance Services" are services that Nuance provides pursuant to an Order to maintain the Software and equipment (as applicable). The description of these Maintenance Services purchased by Licensee is posted online on Nuance website at the URLhttp://support.nuance.com/healthcare under "Hardware and Software Maintenance Options Terms and Conditions". Nuance may update the URL from time to time.

"Non-Physicians" means employees or contractors of Licensee who are not Physicians, but provide medical services on behalf of the Licensee, including, but not limited to, nurses, physician assistants and psychologists.

"Non-Physician Client License" means a license grant as per Section 1(a) of this Agreement, limited for use to only a Non-Physician, as indicated in the Order, pursuant to the terms of this Agreement. For the avoidance of doubt, Software licenses pursuant to a "Non-Physician Client License" cannot be used by Physicians.

"Order" means a purchasing document placed by Licensee hereunder for Software licenses, equipment and Maintenance Services, which indicates, among other things, the number and type of Software license(s) and services purchased by you.

"Perpetual License" means a license grant that is not limited in duration, subject to early termination pursuant to this Agreement.

"Physicians" means physicians (including, but not limited to: full time and part time physicians, attending physicians, D.O.s and residents working on behalf of the Licensee.

"Physician Client License" means a license grant as per Section 1(a) of this Agreement, limited for use to only a Physician, as indicated in the Order, pursuant to the terms of this Agreement.

"Run-time Engine" means the programmed access of the Software by a Licensee application or a third party application integrated with the Software.

"Software Package" means the Software, the associated media, and the Documentation.

"Speech Data" means the audio files, associated transcriptions and log files provided by you hereunder or generated in connection with the Software.

"Term License" means a license grant that is limited in duration, which duration is as indicated in the Order, subject to early termination pursuant to this Agreement.

"User Profile" refers to the record of speaker-specific data that provides a consistent dictation experience across successive dictation sessions.

"Software" shall also include any modified versions, updates, or upgrades of the Software licensed to you by Nuance. You may install and use a modified version, update, or upgrade of the Software only if you have a validly licensed existing version of the Software being modified, updated, or upgraded. If you download, install, copy, or otherwise use a modified version, update, or upgrade of the Software, then your license terminates as to the previous version or edition of the Software that was the basis for your eligibility to such modified version, update or upgrade, and you have a license only to such modified version, update, or upgrade or edition of the Software under the terms of this Agreement.

1. Grant of License

Subject to the terms and conditions of this Agreement, Nuance grants Licensee a nonexclusive license to use the Software subject to the following:

(a) Software. Licensee may allow a single employee or contractor, for each Authorized User License purchased, to use the Software on a Device, in a manner commensurate with its intended use and solely for Licensee's internal business purposes. Pursuant to such right, you are authorized to install one copy of the Software for each Authorized User License purchased on a maximum of four (4) Devices, for use solely by the Authorized Users.

A separate Authorized User License must be purchased for each user whose User Profile(s) is/are being used by the Software. An Authorized User is permitted to create and use multiple User Profiles under a single Authorized User License.

Licensee may authorize a third party to use the Software in connection with any of Licensee's User Profiles solely for the purpose of performing editing or correcting functions for Licensee; however, such third party must purchase a separate Authorized User License to create his or her own User Profile.

(b) Documentation. Subject to the terms and conditions of this Agreement, Nuance grants to Licensee a non-exclusive license to make copies of the Documentation in connection with its use of the Software in accordance with this Agreement, but no more than the amount reasonably necessary to support Authorized Users. Any permitted copy of the Documentation that Licensee makes must contain the same copyright and proprietary notices that appear on or in the Documentation.

2. Nuance's Rights

Licensee acknowledges that the Software Package consists of proprietary information and products of Nuance (or other third parties) protected under United States or other patent, copyright, or trade secret laws. Licensee further acknowledges and agrees that all right, title and interest in and to the Software Package, and each component thereof, are and shall remain with Nuance. This Agreement does not convey to Licensee an interest in or to the Software Package, but only a limited right to use, revocable in accordance with the terms of this Agreement. Nuance reserves all rights not expressly granted to you in this Agreement.

3. Term and Termination

(a) This License is effective upon Licensee's first installation and/or use of the Software and shall continue for the License Duration. Licensee may terminate this Agreement at any time by uninstalling the Software and returning the Software Package to Nuance. Nuance may terminate this Agreement at any time upon breach by Licensee of any terms hereof including non-payment of applicable fees, as indicated in the Order, to Nuance or its reseller, as applicable. Upon such termination by Nuance, Licensee agrees to uninstall the Software and promptly return the Software Package to Nuance.

(b) Termination of this Agreement shall not relieve Licensee of its payment obligations incurred prior to such termination, including all remaining (and subsequently invoiced) monthly payments of license fees with respect to a Term License purchased under this Agreement.

4. Other Restrictions

(a) Licensee may not sub-license, rent, lease, lend, or otherwise commercialize the Software Package or any portion of the Software in any manner including rights (such as use or access rights) on a membership, subscription or pay per use basis.

(b) Except as expressly authorized under this Agreement, Licensee is prohibited from providing use of the Software in a computer service business, third-party outsourcing facility or service, service bureau arrangement, or time sharing basis.

(c) Licensee may not reverse engineer, decompile, modify, create derivative works (except for User Profiles or custom vocabularies as set forth in the Documentation) of, or disassemble the Software, except to the extent that the foregoing restriction is expressly prohibited by applicable law.

(d) Licensee may only use the Software for its internal use only, in accordance with and in the manner intended by the Documentation.

(e) Licensee may not publish the results of benchmarking the Software against competitive software, except to the extent that the foregoing restriction is expressly prohibited by applicable law.

(f) Licensee may not transfer or assign this license or the Software Package to any third party without the prior express written consent of Nuance. Any changes to, modifications to, or derivative works (except as set forth above) of the Software shall become the exclusive property of Nuance, except to the extent that the foregoing restriction is expressly prohibited by applicable law. (g) This license for the Software Package does not allow Licensee to use the Software as a Run-time Engine.

(h) Licensee shall immediately notify Nuance upon learning of any third party's unauthorized possession or use of any Software supplied under this Agreement.

5. Proprietary Rights

Title, ownership rights, and intellectual property rights in the Software Package shall remain in Nuance and/or its suppliers or licensors. Licensee acknowledges such ownership and intellectual property rights, and will not take any action to jeopardize, limit, or interfere in any manner with Nuance's or its suppliers' or licensors' ownership of or rights with respect to the Software Package. The Software Package is protected by copyright and other intellectual property laws and by international treaties.

6. Limited Warranty

Nuance warrants that the Software will perform substantially in accordance with the accompanying Documentation for a period of 90 days from the date of receipt ("Limited Warranty").

If an implied warranty or condition is created by your state/jurisdiction and federal or state/provincial law prohibits disclaimer of it, you also have an implied warranty or condition, BUT ONLY AS TO DEFECTS DISCOVERED DURING THE PERIOD OF THIS LIMITED WARRANTY (90 DAYS). AS TO ANY DEFECTS DISCOVERED AFTER THE NINETY (90) DAY PERIOD, THERE IS NO WARRANTY OR CONDITION OF ANY KIND. Some states/jurisdictions do not allow limitations on how long an implied warranty or condition lasts, so the above limitation may not apply to you. Any modified versions, updates or upgrades to the Software provided to you after the expiration of the 90 day Limited Warranty period are not covered by any warranty or condition, express, implied or statutory.

LIMITATION ON REMEDIES; NO CONSEQUENTIAL OR OTHER DAMAGES. Your exclusive remedy for any breach of this Limited Warranty is as set forth below. Except for any refund elected by Nuance, YOU ARE NOT ENTITLED TO ANY DAMAGES, INCLUDING BUT NOT LIMITED TO CONSEQUENTIAL DAMAGES, if the Software does not meet Nuance's Limited Warranty, and, to the maximum extent allowed by applicable law, even if any remedy fails of its essential purpose. The terms of Section 8 below ("Exclusion of Incidental, Consequential and Certain Other Damages") are also incorporated into this Limited Warranty. Some states/jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to you. This Limited Warranty gives you specific legal rights. You may have others, which vary from state/jurisdiction to state/jurisdiction.

YOUR EXCLUSIVE REMEDY. Nuance's and its suppliers' liability and your exclusive remedy

shall be, at Nuance's option from time to time exercised subject to applicable law, (a) return of the price paid (if any) for the Software, or (b) a repair or replacement of the Software that does not meet this limited warranty and that is returned to Nuance with a copy of your receipt. You will receive the remedy elected by Nuance without charge, except that you are responsible for any expenses that you may incur (example: cost of shipping the Software to Nuance). This Limited Warranty is void if failure of the Software has resulted from accident, abuse, misapplication, abnormal use or a virus. Any replacement software will be warranted for the remainder of the original warranty period or thirty days, whichever is longer.

7. Disclaimer of Warranty

THE LIMITED WARRANTY THAT APPEARS ABOVE IS THE ONLY EXPRESS WARRANTY MADE TO YOU AND IS PROVIDED IN LIEU OF ANY OTHER EXPRESS WARRANTIES (IF ANY) CREATED BY ANY DOCUMENTATION OR PACKAGING. EXCEPT FOR THE LIMITED WARRANTY AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NUANCE AND ITS SUPPLIERS PROVIDE THE SOFTWARE PACKAGE, MAINTENANCE SERVICES OR OTHER SERVICES (IF ANY) ON AN "AS IS" BASIS, AND DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, WARRANTIES THAT IT IS FREE OF DEFECTS, MERCHANTABLE, FIT FOR A PARTICULAR PURPOSE, OR NON-INFRINGING, as well as WARRANTIES OF ACCURACY, COMPLETENESS OF RESPONSES, RESULTS, WORKMANLIKE EFFORT, LACK OF VIRUSES, AND OF lack of NEGLIGENCE, ALL WITH REGARD TO THE SOFTWARE PACKAGE AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES. THE ENTIRE RISK AS TO THE QUALITY AND PERFORMANCE OF THE SOFTWARE AND any MAINTENANCE SERVICES OR OTHER SERVICES IS BORNE BY LICENSEE. SHOULD THE SOFTWARE PROVE DEFECTIVE IN ANY RESPECT, LICENSEE AND NOT NUANCE OR ITS SUPPLIERS OR RESELLERS ASSUMES THE ENTIRE COST OF ANY SERVICE OR REPAIR. THIS DISCLAIMER OF WARRANTY CONSTITUTES AN ESSENTIAL PART OF THIS AGREEMENT. NO USE OF THE SOFTWARE IS AUTHORIZED HEREUNDER EXCEPT UNDER THIS DISCLAIMER. SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY MAY LAST, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

8. EXCLUSION OF INCIDENTAL, CONSEQUENTIAL AND CERTAIN OTHER DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL Nuance OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY, INCLUDING OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE SOFTWARE, THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF Nuance OR ANY SUPPLIER, AND EVEN IF Nuance OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. LIMITATION OF LIABILITY AND REMEDIES. Notwithstanding any damages that you might incur for any reason whatsoever (including, without limitation, all damages referenced above and all direct or general damages), the entire liability of Nuance and any of its suppliers under any provision of this Agreement and your exclusive remedy for all of the foregoing (except for any remedy of repair or replacement elected by Nuance with respect to any breach of the Limited Warranty) shall be limited to the amount actually paid by you for the Software. The foregoing limitations, exclusions and disclaimers (including Sections 6, 7 and 8 above) shall apply to the maximum extent permitted by applicable law, even if any remedy fails its essential purpose.

10. Assignment

In no event may Licensee assign its rights or obligations hereunder or subcontract any portion of its performance hereunder without Nuance's prior written consent.

11. Remedies

If Licensee breaches this Agreement, Licensee shall promptly return the Software Package to Nuance. A breach by Licensee will irrevocably harm Nuance, and Nuance shall be entitled to injunctive and/or other equitable relief, in addition to any other remedies afforded by law.

12. Governing Law

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

13. Severability

Should any term of this Agreement be declared void or unenforceable by any court of competent jurisdiction, such declaration shall have no effect on the remaining terms hereof.

14. No Waiver

The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

15. United States Government End Users

This Section applies to all acquisitions of the Software by or for the Federal government or by any prime contractor or subcontractor (at any tier) under any contract, grant, cooperative agreement, or other activity with the Federal government. By accepting delivery of the Software, the government hereby agrees that this software qualifies as "commercial" computer software within the meaning of the acquisition regulation(s) applicable to the procurement. The terms and conditions of this Agreement shall pertain to the government's use and disclosure of the Software and shall supersede any conflicting contractual terms or conditions. If this Agreement fails to meet the government's needs or is inconsistent in any respect with Federal law, the government agrees to return the Software, unused, to Nuance. The following additional statement applies only to acquisitions governed by DFARS Subpart 227.4 (October 1988): "Restricted Rights-Use, duplication, and disclosure by the Government is subject to restrictions as set forth in subparagraph (c)(1)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 (Oct. 1988)." In the event any of the above referenced agency regulations is amended or replaced, the equivalent successor regulation shall apply instead.

16. Licensee expressly agrees that Nuance is not a licensed health care provider and that the Software is not a substitute for independent medical decision making by a qualified health care practitioner. Licensee is solely responsible for its own conduct with respect to patient care and any reliance upon the Software shall not diminish License's responsibility for patient care that you may be involved or associated with.

17. Export Restrictions. You acknowledge that the Software Package is subject to U.S. export jurisdiction. You agree to comply with all applicable laws that apply to the Software Package, including the U.S. Export Administration Regulations, as well as end-user, end-use and destination restrictions issued by the U.S. government.

18. Consent To Use Of Speech Data. The Software has a feature by which you may enable Nuance to collect Speech Data. By turning on the feature to provide Nuance with Speech Data, you acknowledge, consent and agree that Nuance may collect and use the Speech Data as provided hereunder. The parties agree that Speech Data shall only be used by Nuance or third parties acting under the direction of Nuance, pursuant to confidentiality agreements, to tune, enhance and improve the speech recognition and other components of the Software, and other Nuance services and products. Nuance will not use the information elements in any Speech Data for any purpose except as set forth above.

19. Activation. Nuance has designed the Software to prevent unlicensed use of the Software. Licensee agrees that Nuance may do so. In particular, use of the Software requires that Licensee activate the Software as described during the installation of the Software. During such activation, Nuance may collect certain non-personal technical information from Licensee's computer concerning Licensee's computer or network. Licensee agrees that Nuance may do so. Licensee may be required to reactivate the Software if Licensee modifies its computer hardware, the Software, or the operating system.

20. Notifications. From time to time, Licensee may receive notices about the Software or other information through an Internet connection initiated automatically by the Software. This connection will be made using the Internet connections and telephone lines under Licensee's control. By installing the Software on Licensee's computer, Licensee hereby consents to have the Software initiate a connection through the Internet to Nuance's website and to receive notices about the Software and other information through Licensee's Internet connection.