



## Compliance Plan 2023

Our commitment to ethical conduct and compliance depends on all Equinox staff.

If you find yourself in an ethical dilemma or suspect inappropriate or illegal conduct, discuss with your supervisor, contact the interim Compliance Director (Edward Giordano, [egiordano@equinoxinc.org](mailto:egiordano@equinoxinc.org), (518) 928-7469 or the Compliance Hotline (518) 435-9931 x 5440.

### **Equinox Mission Statement**

Changing lives and strengthening communities in the Capital Region through a continuum of human services.

## **Introduction**

Equinox has developed this Compliance Manual as a resource, to summarize basic compliance standards and provide an overview of the Equinox Compliance Program. The Compliance Manual should be read along with the following Equinox Policies:

- Equinox Code of Conduct
- Ethical Standards for Staff
- Compliance Training and Education
- Whistleblower Reporting and Non-Retaliation
- Disciplinary Action

## **Commitment to Compliance**

Equinox is committed to full compliance with all applicable laws and regulations. Adherence to compliance and ethical standards is part of the job performance expectations of all Affected Individuals (“Affected individuals” means all persons who are affected by the required provider’s risk areas including the required provider’s employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers). Failure to comply with these requirements is viewed seriously and affected individuals failing to comply will face disciplinary action or termination of contract. All affected individuals are required to know, understand, and follow all policies and procedures that apply to their work and to seek clarification from their supervisor or the Compliance Department if they have any questions.

## **Leadership Responsibilities**

Equinox expects its leaders to set the example, to be in every respect a role model. Our leaders help to create a culture that promotes the highest standards of ethics and compliance. This culture must encourage everyone in the organization to share concerns when they arise, without fear of retaliation.

## **Client Services**

Equinox is committed to providing high-quality client services in the communities we serve and advocates a responsive management style and a client-first philosophy based on integrity and competence. We treat our clients with respect and dignity, providing high-quality, compassionate services.

## **Ethical Standards for Staff and Professional Conduct**

Equinox has developed a Code of Conduct policy and an Ethical Standards for Staff policy that are designed to deter wrongdoing and promote honest and ethical conduct. These policies detail the fundamental principles, values, and framework for compliance within the organization, providing guidance on acceptable behavior for Equinox staff and making clear the expectation that Equinox staff will comply with all applicable governmental laws, rules and regulations and will report violations of the law, regulations or company policy to the appropriate person.

## **Privacy and Security of Client Information**

Client health information is protected under both state and federal laws. Under federal law, this is referred to as “protected health information” or PHI and is governed by the Health Insurance portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology Act for Economic and Clinical Health (HITECH) Act of 2009, and their implementing regulations, including the HIPAA Privacy Rule and the HIPAA Security Rule.

The HIPAA Privacy Rule provides federal privacy protection for PHI held by covered entities such as Equinox and describes patient rights with respect to their PHI. The HIPAA Security Rule requires covered entities and their business associates that use PHI to use administrative, physical, and technical safeguards to assure the confidentiality, integrity and availability of electronic protected health information.

Currently, Equinox has designated the Director of Information Services as the interim Director of Compliance, the HIPAA Privacy Officer, and the HIPAA Security Officer.

Equinox has policies and procedures in place addressing the applicable privacy and security requirements. All staff receive training on HIPAA requirements and are expected to obey these requirements and keep PHI confidential during its collection, use, storage, and destruction. Equinox staff are not permitted to access, obtain, disclose, or discuss PHI without written authorization from the client or their legal representative, unless necessary for treatment, payment or healthcare operations or required by law.

## **Client Records**

Equinox strives to ensure facility client records are accurate and provide information that documents the services provided and supports the claims submitted for payment. Tampering with or falsifying client records, financial documents or other business records of Equinox will not be tolerated.

## **Submission of Accurate Claims and Information**

All claims and requests for reimbursement from the federal healthcare programs including Medicaid or Medicare as well as private insurers – and all documentation supporting such claims

and requests – must be complete and accurate and comply with legal requirements. They must reflect reasonable and necessary services ordered by appropriately licensed professionals.

Equinox expects all persons involved in billing and claims reimbursement activities to submit timely, accurate and proper claims and information. Appropriate documentation is needed to support all claims. Equinox staff must adhere to all relevant rules and regulations pertaining to all billing requirements of the payer. See your Program Manual for documentation guidance specific to your program or ask your supervisor.

### **Equinox Compliance Program Elements**

Equinox is committed to an effective Compliance Program as defined by New York State and Federal law. The following are the required elements of the Equinox Compliance Program.

- Written policies and procedures that describe compliance expectations such as those embodied in the Code of Conduct and the Ethical Standards for Staff.
- The Director of Compliance is the designated person to be responsible for the day-to-day operation of the Compliance Program.
- Compliance Committee
- The provision of training and education of all affected individuals, including governing body members, on compliance issues, expectations, and the compliance program operations.
- Open communication lines to the Director of Compliance that are accessible to all staff, persons associated with Equinox, executives, and governing body members, to allow compliance issues to be reported. Equinox maintains a Compliance Hotline that allows for anonymous and confidential reporting of compliance issues. Disciplinary policies to encourage good faith participation in the compliance program, including policies that articulate expectations for reporting compliance issues and assist in their resolution and outline sanctions for:
  - Failing to report suspected problems;
  - Participating in non-compliant behavior; or
  - Encouraging, directing, facilitating, or permitting either actively or passively non-compliant behavior, such as disciplinary policies will be fairly or firmly enforced.
- A system for the routine identification of compliance risk areas, for self-evaluation of risk areas, including but not limited to internal audits and as appropriate external audits, mandatory reporting, governance, or quality of care. These risk areas include:
  - billings
  - payments
  - ordered services
  - medical necessity
  - quality of care
  - governance
  - mandatory reporting

- credentialing
- contractor, subcontractor, agent, or independent contract oversight; and
- other risk areas that are or should reasonably be identified by the provider through “organizational experience.” (which includes Equinox’s knowledge, skill, practice, and understanding in operating a compliance program; identification of issues or risk areas; experience, knowledge, skill, practice and understanding of its participation in the Medicaid program; and awareness of issues it should reasonably become aware of for its services).
  - Examples of these include:
    - The need for continual training with staff turnover
    - Trends and patterns revealed by internal or external auditing
    - Errors in using the Electronic Health Record (Evolv)
- A system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified during internal audits; correcting such problems promptly and thoroughly and implementing policies and procedures and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to the Compliance Department.
- A policy of non-intimidation and non-retaliation for good faith participation in the compliance program including but not limited to reporting potential issues, investigating issues, self-evaluations and audits and remedial actions.

## **Operation of the Compliance Program**

Overall responsibility for operation and oversight of the Compliance Program belongs to the Equinox Board of Directors; however day-to-day responsibility for operation and oversight rests with the Director of Compliance, who has direct access to the Board of Directors and makes reports to the Board of Directors on the status of the Equinox Compliance Program at least quarterly. The Equinox Director of Compliance is supported in these duties by the Equinox Compliance Committee and designated Compliance staff.

## **Director of Compliance and Compliance Committee Designation**

Equinox has designated an Equinox Director of Compliance to oversee the compliance program. The Director of Compliance focuses on compliance with the rules and regulations of regulatory agencies, and Equinox policies and procedures, and works to assure that behavior meets standards of conduct.

The Equinox Compliance Committee supports the Director of Compliance, other members of the Compliance Program and individuals involved in staff training and provides oversight for the implementation and operation of the Compliance Program. Members of the Compliance Committee include:

- Director of Compliance
- Members from the Senior Leadership Team
- Program Directors and Managers as Designated

The Compliance Committee shall meet at least quarterly. It will coordinate policy and procedure and ensure training materials are inclusive of any changes and complete. It will ensure and provide lines of communication for Compliance Officer, ensure sufficient staffing of the Compliance Program, ensure effective systems are in place, and advocate for adoption of required modifications to Compliance Program.

### **Open Lines of Communication**

Equinox encourages open communication without fear of retaliation. This facilitates our ability to identify and respond to compliance problems. If there are any questions or concerns regarding compliance with state or federal laws and regulations, or any aspect of the Compliance Program, including compliance policies and procedures, affected individuals should seek immediate clarification from their supervisor or the Director of Compliance. They can also call the toll-free Compliance Hotline (518) 435-9931 x5440. These reports may be made anonymously. If any affected individual has knowledge of, or in good faith suspects any wrongdoing:

- In the documenting, coding or billing for services, equipment or supplies
- In the organization's financial practices
- Involving any violation of any law or regulation
- Involving a violation of any Equinox policy
- Any other compliance concern

They are expected to promptly report it so that an investigation can be conducted, and appropriate action taken. Equinox will protect the confidentiality of those making reports.

The agency's Lines of Communication will be posted publicly in all programs.

### **Training and Education**

Equinox provides compliance training and education for affected individuals that:

- Reviews the elements of the Compliance Program
- Reviews Risk Areas and Organizational Experience
- Provides information about applicable laws, regulations, policies and procedures
- Delineates Lines of Communication for all Affected Individuals
- Discusses the ethical and compliance standards set forth in the Professional Conduct and Ethical Standards policies.
- Discusses the Disciplinary Standards and their relationship to Compliance
- Outlines the response to compliance issues

The purpose of the training and education program is to ensure that affected individuals are fully capable of performing their work in compliance with rules, regulations, laws, and other standards.

Training is provided in new employee orientation, annual training updates, or as a result of changes in policies and procedures, or regulations and laws.

### **Response to Detected Deficiencies**

Equinox is committed to responding consistently and decisively to detected deficiencies. As deficiencies are discovered through audits, reporting mechanisms, and other activities involved in the operation of the Compliance Program, corrective measures and disciplinary actions will be developed to address the noncompliance.

Corrective Action Plans and other remedial actions will typically include, among other actions, staff education and training, additional monitoring, and auditing; and can involve reporting to outside agencies as required.

### **Internal Monitoring and Auditing**

Equinox staff are expected to cooperate with all Equinox-authorized auditing and monitoring activities. The Director of Compliance will prepare an annual audit work plan and oversee audits which are designed to monitor and detect misconduct, noncompliance, or failure to follow applicable requirements. The Director of Compliance develops a yearly audit work plan for the organization, including risk assessment results and federal OIG and state OMIG work plan review. Audit reports prepared by the Director of Compliance are presented to the Equinox Compliance Committee and the Board of Directors.

### **Enforcement of Disciplinary Standards**

Equinox staff who violate the law, Equinox policies, Ethical Standards for Staff, or the Professional Conduct Policy, including the duty to report suspected violations, are subject to disciplinary action. Disciplinary actions will reflect the severity of the noncompliance, up to and including termination. Supervisors and the Director of Compliance are expected to work with the Director of Human Resources to assure that each instance involving the enforcement of disciplinary standards is thoroughly documented and that disciplinary standards are enforced fairly and consistently across the organization. All Equinox personnel are expected and required to adhere to and follow Equinox compliance policies.

### **Ineligible Persons – Excluded Individuals and Entities**

Equinox does not do business, hire or bill for services rendered by individuals or entities that are excluded or ineligible to participate in federal healthcare programs. Equinox human resources are responsible for screening staff and maintaining a record of this information. Equinox staff have a responsibility to report to their supervisor or human resources department if they become excluded, debarred or otherwise ineligible to participate in federal healthcare programs.

Equinox has a compliance policy that describes requirement that appropriate checks be performed for applicable individuals in accordance with state and federal laws relating to exclusion from government healthcare programs and licensure status. This policy is designed to assure that no government healthcare program payment is sought for any items or services directed or prescribed by staff, including medical staff and clinicians who provides and/or orders services and who is an ineligible person.

## **Laws, Regulations and Requirements**

Equinox's Compliance Program is guided by all applicable state and federal standards. These include, but are not limited to:

- Health Insurance Portability and Accountability Act (HIPAA)
- Health Information Technology for Economic and Clinical Health (HITECH)
- Violence Against Women Act (VAWA)
- Federal False Claims Act
- Federal Deficit Reduction Act
- Federal Program Fraud Civil Penalties Act
- New York State Mental Health and Public Health Laws
- New York False Claims Act
- New York Labor Law §740
- New York Labor Law §741
- Social Services Law §145, Penalties
- Social Services Law §145-b, False Statements
- Social Services Law §145-c, Sanctions
- Social Services Law §363-d, Detect and correct billing mistakes and fraud
- Social Services Law §366-b, Penalties for Fraudulent Practices
- Penal Law Article 155, Larceny
- Penal Law 175, False Written Statements
- Penal Law 176, Insurance Fraud
- Penal Law 177, Health Care Fraud.

## **Reporting Improper conduct**

Equinox is committed to complying with all applicable laws and regulations, including those designed to prevent and deter fraud, waste and abuse. Equinox desires a climate that discourages



improper conduct and facilitates open communication of any compliance concerns and/or questions, If any Equinox staff have knowledge of, or in good faith, suspect any wrongdoing in the documenting, coding or billing for services, equipment or supplies; in the organization's financial practices; involving any violation of any law or regulation; or involving a violation of any Equinox policy; they are expected to promptly report it so that an investigation can be conducted and appropriate action taken.

There are many ways to report suspected improper conduct. In many cases, any concerns should be brought to the attention of a supervisor. However, if this does not result in appropriate action, or if the individual is uncomfortable discussing these issues with their supervisor, they should take concerns to another member of management, or use the reporting methods available through the Equinox Compliance Program.

Individuals may be reluctant to discuss wrongdoing with their supervisors because they fear retaliation. **No retaliation will be permitted against Equinox staff who bring forward concerns made in good faith.** Only where it has been clearly determined that someone has made a report of wrongdoing maliciously, frivolously, or in bad faith will disciplinary action be considered.

### **Supervisors Receiving Complaints**

Supervisors receiving a complaint that raises a potential compliance issue will promptly report the complaint to the Director of Compliance. Complaints that do not raise a potential compliance issue will be referred to the appropriate department (e.g. human resources, facilities). Supervisors will not take retaliatory action against staff who report complaints in good faith or cooperate in an investigation.

### **Overpayments**

Should an overpayment be identified through billing reviews, internal documentation audits, external audits or other methods the error will be reported using the following process:

- Equinox will use best efforts to quantify the overpayment as soon as practical.
- The Billing Manager will immediately report to the Director of Finance and the Director of Compliance all potential or actual overpayments from government and private payers.
- Within 60 days after identification of any overpayment, Equinox will submit a Self-Disclosure Statement to the NYS OMIG, unless such overpayment would be subject to reconciliation and or adjustment pursuant to routine policies and procedures established by the payer or fiscal intermediary.
- Equinox will take remedial steps to correct the problem and prevent the overpayment from recurring.

## **Improper Inducements**

- Federal fraud and abuse laws prohibit offering or providing inducements to beneficiaries in government healthcare programs and authorize the Office of the Inspector General to impose civil money penalties for these violations. Equinox staff may not offer valuable items or services to government healthcare program beneficiaries to attract their business. This includes gifts, gratuities, and other things of value.
- Federal government healthcare programs and Equinox prohibit the waiving of a client co-pay for services.

## **False Claims and Whistleblower Protection**

Equinox intends to fully comply with the False Claims Act (FCA) and any similar state laws. These laws fight fraud and abuse in government healthcare programs. Under the FCA, individuals can bring a lawsuit in the name of the United States by filing a complaint confidentially “under seal” in court if they discover that a fraudulent claim has been made for reimbursement by a government agency.

The federal FCA contains a “qui tam” provision, commonly called the whistleblower provision, which permits a private person with knowledge of a false claim to file a lawsuit on behalf of the United States government. An individual who exposes wasteful, harmful, or illegal acts is often called a “whistleblower” or “qui tam relator”. A qui tam relator may be rewarded a percentage of the funds recovered. The FCA provides protection for qui tam relators from termination, demotion, suspension, or discrimination related to these claims. However, if an individual files such a lawsuit frivolously they may be subject to sanctions, including the other party’s attorney’s fees. If a qui tam relator is convicted of criminal conduct, the qui tam relator will not receive any proceeds and will be dismissed from the lawsuit.

Please contact Edward Giordano, Director of Information Systems, and Interim Director of Compliance, with any questions regarding issues related to compliance, client confidentiality, or client care at 518.435.9931 x5234, 518.928.7469, or [egiordano@equinoxinc.org](mailto:egiordano@equinoxinc.org).