

**HIPAA Privacy Policy #11
Uses and Disclosures of Protected Health Information
With Patient Consent for Treatment**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.502; 164.506; 164.508; 164.514; 164.528 164.530
Authorized by: Equinox Board of Directors	Version #:

Policy: Equinox, Inc. may use and disclose Protected Health Information for treatment purposes with a patient's written consent according to the Procedures listed below.

“Treatment” means the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third-party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another.

ALTHOUGH HIPAA DOES NOT REQUIRE AUTHORIZATION FOR TREATMENT, NEW YORK STATE LAW CONSENT REQUIREMENTS CONTINUE TO APPLY.

Procedures:

1. Equinox, Inc.'s Treatment Purposes:
 - a. Own Use: Equinox, Inc. may use and disclose Protected Health Information for its own treatment of the patient with the patient's written Consent. *45 C.F.R. § 164.506(a). 45 C.F.R. § 164.506(b); N.Y. Education Law § 6530(23).*
 - b. Disclosure of Information: Equinox, Inc. may disclose Protected Health Information *to any person or entity* if the disclosure is in furtherance of Equinox, Inc.'s treatment of a patient and if Equinox, Inc. has first obtained the patient's written Consent. *45 C.F.R. § 164.506(b); N.Y. Education Law § 6530(23).*
2. Treatment Purposes of an Outside Health Care Provider: Equinox, Inc. may disclose Protected Health Information *to an outside health care provider* (such as a pharmacy, specialist, physician, nurse, or hospital) if the disclosure is in furtherance of the other provider's treatment of a patient and if Equinox, Inc. has first obtained the patient's written Consent.
3. Conditions on Use and Disclosure for Treatment:
 - a. Minimum Necessary: As a general rule, Equinox, Inc. is not required to limit the amount of Protected Health Information that is used by Equinox, Inc.'s Workforce for treatment purposes. *45 C.F.R. § 164.502(b)(2)(i).* Equinox, Inc. may rely on requests from other health care providers as requests for the minimum amount of information necessary for

their purposes, unless their request is unreasonably broad. *See* Equinox, Inc.’s Policy No. 7 entitled “Minimum Necessary Uses, Disclosures and Requests of Protected Health Information.” 45 C.F.R. § 164.514(d)(1).

- b. Reasonable Safeguards: When using and disclosing Protected Health Information for treatment purposes, Equinox, Inc. must make all reasonable efforts to limit the unintentional disclosure of Protected Health Information to third parties or bystanders, including having in place appropriate administrative, technical and physical safeguards to protect the privacy of the Protected Health Information. For example, Equinox, Inc.’s Workforce shall exercise caution to avoid and eliminate unnecessary discussion and conversation about a patient within earshot of third parties. Equinox, Inc.’s Workforce shall also exercise reasonable efforts to minimize the unnecessary exposure of patient records to third parties. 45 C.F.R. § 164.530(c)(1).
- c. Verify the Identity and Authority of Outside Entities: Equinox, Inc. must verify the identity of an outside provider before disclosing Protected Health Information to that provider. *See* Equinox, Inc.’s Policy No. 9 entitled “Verification of Entities or Persons to Whom Protected Health Information May Be Disclosed.” 45 C.F.R. § 164.514(h)(1).
4. Log of Disclosures: Equinox, Inc. is not required to log disclosures of records created in hard copy paper format made pursuant to this Policy in the patient’s Log for Accounting of Disclosures (*See* Equinox, Inc.’s Policy No. 32 entitled “Accounting of Disclosures”).¹ However, disclosures of Protected Health Information to carry out treatment, payment and health care operations made through an electronic health record are not exempt from the accounting requirement and must be included in the patient’s Log for Accounting of Disclosures. **New York law additionally requires Equinox, Inc. to make a notation in a patient’s file or record of the purpose for every disclosure to a third party (including disclosures made under this Policy), except disclosures to practitioners under contract with Equinox, Inc. and certain government agencies.** 45 C.F.R. § 164.528(a); *N.Y. Public Health Law § 18(6)*.
5. Special Protection for Highly Sensitive Protected Health Information: In accordance with certain Federal and New York State laws, Equinox, Inc. includes information that relates to HIV, Mental Health, Psychotherapy Notes, Alcohol and Substance Abuse Treatment, and Genetics. The Privacy Officer, and legal counsel when appropriate, should be consulted prior to the disclosure of such information. *See* Equinox, Inc.’s Policy No. 14 entitled “Uses and Disclosures of Highly Sensitive Protected Health Information.”

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¹ Section 13405(c) of the Health Information Technology for Economic and Clinical Health (“HITECH”) Act, enacted in 2009, requires the Department of Health and Human Services (“HHS”) to revise the HIPAA Privacy Rule to require Covered Entities to account for disclosures of Protected Health Information to carry out treatment, payment and healthcare operations if such disclosures are through an electronic health record. In May 2010, HHS issued a Request for Information in the Federal Register seeking comments from the public on the interests of various constituencies concerning this new accounting requirement. HHS is still working on preparing guidance on this issue, and the Privacy Rule does not currently contain a requirement that Covered Entities account for disclosures of electronic health records containing Protected Health Information to carry out treatment, payment and healthcare operations.