

**HIPAA Privacy Policy #13**  
**Uses and Disclosures of Protected Health Information**  
**With Patient Consent for Health Care Operations**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.501; 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 health care operations with a patient's written consent according to the Procedures listed below.

*“Health Care Operations” means activities that relate to quality assessment, health care improvement, reduction of costs, evaluation of performance, training, accreditation, certification, licensing, credentialing, underwriting, premium rating, arranging for legal and auditing services, business planning and development, business management and general administrative activities.*

**ALTHOUGH HIPAA DOES NOT REQUIRE AUTHORIZATION FOR HEALTH CARE OPERATIONS, NEW YORK STATE LAW CONSENT REQUIREMENTS CONTINUE TO APPLY.**

**Procedures:**

1. Equinox, Inc.'s Health Care Operations:
  - a. Own Use of Information: Equinox, Inc. may use Protected Health Information with a patient's written consent if the information is being used in furtherance of Equinox, Inc.'s health care operations. *45 C.F.R. § 164.506(a); N.Y. Education Law § 6530(23); and*
  - 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 health care operations 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. Health Care Operations of an Outside Health Care Provider or Health Plan: Equinox, Inc. may disclose Protected Health Information to an outside health care provider (such as a pharmacy, specialist, physician, nurse, or hospital) a health care clearinghouse or health plan if the disclosure is in furtherance of the recipient's health care operations and if:
  - a. Equinox, Inc. has first obtained the patient's written Consent, as required by New York law;
  - b. the other provider, clearinghouse or plan is covered by the HIPAA Privacy Rule. *45 C.F.R. § 164.506(c);*

- c. the other provider, clearinghouse or plan has or had a relationship with the patient. *45 C.F.R. § 164.506(c)(4)*; and
- d. the information is being sought for purposes of quality assessment, improvement of health, reduction of health care costs, training, accreditation, certification, and health care fraud and abuse detection and compliance. *45 C.F.R. § 164.501*.

If Equinox, Inc. is permitted to disclose Protected Health Information to a health care provider, clearinghouse or health plan according to this Policy, Equinox, Inc. may also disclose Protected Health Information to their Business Associates. *45 C.F.R. § 164.514(h)*.

3. Conditions on Use and Disclosure for Payment:

- a. Minimum Necessary: Any use or disclosure of Protected Health Information for health care operations is subject to the Minimum Necessary Rule. This rule requires Equinox, Inc. to limit any use or disclosure of Protected Health Information to the minimum amount of information that is necessary in light of the reason for the use or disclosure. This means that Equinox, Inc.'s Workforce may only use Protected Health Information for health care operations to the extent that they are authorized to engage in such activities and only to the extent that is necessary to allow them to carry out their duties. Equinox, Inc. may only disclose the minimum amount of information necessary for health care operations. Equinox, Inc. may rely on requests from other health care providers or health plans 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 health care operations 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 personnel 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").<sup>1</sup> However, disclosures of

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<sup>1</sup> 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

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. must provide greater privacy protections to highly sensitive Protected Health Information, which 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."
  
6. Agreement to Restrict Disclosure: Equinox, Inc. must agree to a patient's request to restrict disclosure of Protected Health Information about the patient if (i) the disclosure is for the purpose of carrying out payment or health care operations and is not otherwise required by law and (ii) the Protected Health Information pertains solely to a health care item or service for which the patient or a person, other than the health plan on behalf of the patient, has paid Equinox, Inc. in full. *See* Policy No. 33 entitled "Requested Restrictions on Uses and Disclosures of Protected Health Information".