

**HIPAA Privacy Policy #15
Uses and Disclosures of Protected Health Information
With Patient Consent
for Appointment Reminders and Notice of Treatment Alternatives**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.501; 164.502; 164.506; 164.508; 164.522; 164.528; 164.530
Authorized by: Equinox Board of Directors	Version #:

Policy: Equinox, Inc. may use and disclose a patient’s Protected Health Information to remind the patient about appointments and to inform the patient about treatment alternatives or benefits and services that may be of interest to the patient with the patient’s written consent according to the Procedures listed below. *45 C.F.R. § 164.506; N.Y. Education Law § 6530(23).*

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

Procedures:

1. Appointment Reminders: Equinox, Inc. may use the following methods of reminding patients about upcoming appointments with patient’s written consent. *45 C.F.R. § 164.506(a).* See Equinox, Inc.’s Policy No. 11 entitled “Use and Disclosure Of Protected Health Information with Patient Consent for Treatment.” *45 C.F.R. § 164.506(b); N.Y. Education Law § 6530(23).*
 - a. Postcard: Equinox, Inc. may send a postcard to a patient’s address of record containing the following information: patient’s name and address and the time, date and location of the appointment.
 - b. Telephone Message: Equinox, Inc. may leave the following information on an answering machine or with a person who answers the telephone at the patient’s home: the patient’s name and the time, date and location of the appointment.
2. Information About Treatment Alternatives and Other Benefits and Services: Equinox, Inc. may contact a patient to provide information about treatment alternatives or benefits and services that may be of interest to the patient. Equinox, Inc. will only provide such information to a patient in a face to face encounter, by sending written material in a sealed envelope to the patient’s home address, or by contacting the patient directly by telephone.
3. Restrictions on Communication: Some patients may request that Equinox, Inc. use alternate or special means of communicating with them. For instance, a patient may request that Equinox, Inc. only contact them on their cell phone or at work. Equinox, Inc. is required to honor such requests that are reasonable. Equinox, Inc. may not communicate with a patient pursuant to this Policy in a

manner that would violate a patient's reasonable request for restricted communications. (*See* Equinox, Inc.'s Policy No. 33 entitled "Requested Restrictions on Uses and Disclosures.") 45 C.F.R. § 164.522(b)(1)(i).

4. **Minimum Necessary:** The Minimum Necessary Rule does not apply to information that Equinox, Inc. discloses directly to a patient pursuant to this Policy. However, Equinox, Inc. must limit any disclosure of information on answering machines, on postcards, or to individuals who answer the telephone at a patient's home to the minimum amount of information necessary in light of the intended purpose of the disclosure. (*See* Equinox, Inc.'s Policy No. 7 entitled "Minimum Necessary Uses, Disclosures and Requests of Protected Health Information.") 45 C.F.R. § 164.502(b)(2)(ii).
5. **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)*.
6. **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."

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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.