

HIPAA Privacy Policy #12
Uses and Disclosures of Protected Health Information
With Patient Consent for Payment

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.501; 164.502; 164.506; 164.508; 164.514; 164.528; 164.530
Authorized by: Equinox Board of Directors	Version #: v.

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

“Payment” means activities undertaken by Equinox, Inc. to obtain or provide reimbursement for the health care services it has provided. This includes billing, collection and billing review activities.

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

Procedures:

1. Equinox, Inc.'s Payment Purposes:
 - a. Own Use of Information: Equinox, Inc. may use and disclose Protected Health Information with a patient's written Consent if the information is being used in furtherance of Equinox, Inc.'s efforts to obtain payment. *45 C.F.R. § 164.506(a). N.Y. Education Law § 6530(23).*
 - b. Disclosure of Information: Equinox, Inc. may disclose Protected Health Information *to any person or entity* (such as patients' insurance companies and patients' family members) if the disclosure is in furtherance of Equinox, Inc.'s efforts to obtain payment and if Equinox, Inc. has first obtained the patient's written Consent. *45 C.F.R. § 164.506(b). N.Y. Education Law § 530(23).*
2. Payment Purposes 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) if the disclosure is in furtherance of the recipient's efforts to obtain payment and if Equinox, Inc. has first obtained the patient's written Consent. If Equinox, Inc. is permitted to disclose Protected Health Information to a health care provider or health plan according to this Policy, Equinox, Inc. may also disclose Protected Health Information to their Business Associates. *45 C.F.R. § 164.506(c).*
3. Conditions on Use and Disclosure for Payment:
 - a. Minimum Necessary: Any use or disclosure of Protected Health Information for payment purposes 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 payment purposes to the extent that they are authorized to engage in payment 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 to obtain payment. 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 payment 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 or plan before disclosing Protected Health Information to that entity. Please refer to Equinox, Inc.'s Policy No. 7 entitled "Minimum Necessary Uses, Disclosures and Requests of Protected Health Information." 45 C.F.R. § 164.502(b).
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. 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

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 health care operations.

such information. *See* Equinox, Inc.'s Policy No. 14 entitled "Uses and Disclosures of Highly Sensitive Protected Health Information."