

**HIPAA Privacy Policy #16
Uses and Disclosures of Protected Health Information
Without Patient Authorization to Family and Friends**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.502; 164.508; 164.510; 164.528; 164.530
Authorized by: Equinox Board of Directors	Version #:

Policy: Equinox, Inc. may disclose Protected Health Information to a patient’s family member, friend or caregiver without the patient’s written Authorization according to the Procedures listed below. *45 C.F.R. § 164.510(b)(5).*

Procedures:

1. **Patient is Available and Able to Object:** If a patient is available and capable of objecting, Equinox, Inc. will provide the patient with an opportunity to object before disclosing Protected Health Information to a patient’s family member, relative, friend, or other individual identified by the patient. If the patient agrees or does not object (after being given an opportunity to object, or it might be reasonably inferred from the circumstances based on professional judgment, that the patient does not object), Equinox, Inc. may disclose the following information to the following individuals: *45 C.F.R. § 164.510(b)(1)-(2).*
 - a. **Information Relevant to Involvement in Health Care or Payment for Health Care:** Equinox, Inc. may disclose Protected Health Information to a patient’s *family members, relatives, close personal friends, or others identified by the patient*, which is directly relevant to the person’s involvement in the patient’s care or payment for the patient’s health care.
 - b. **Information for Notification Purposes:** Equinox, Inc. may disclose Protected Health Information to notify a patient’s *family members, personal representative, or others responsible for the patient’s care* of the patient’s location or general condition unless the disclosure is inconsistent with any prior expressed preference of the patient that is known to Equinox, Inc..

2. **Patient is Unavailable or Unable to Object:** If a patient is unavailable or incapable of objecting, Equinox, Inc. may disclose the following Protected Health Information to the following individuals if Equinox, Inc. determines, using professional judgment, that the disclosure is in the patient’s best interests: *45 C.F.R. § 164.510(b)(3), (5).*
 - a. **Information Relevant to Involvement in Health Care:** Equinox, Inc. may disclose Protected Health Information to a patient’s *family members, relatives, close personal friends, or others identified by the patient*, which is directly relevant to the person’s involvement in the patient’s health care.
 - b. **Information for Notification Purposes:** Equinox, Inc. may disclose Protected Health Information to notify a patient’s *family members, personal representative, or others responsible for the patient’s care* of the patient’s location, or general condition or death.

Examples of Permitted Disclosures: Equinox, Inc. may use professional judgment and experience with common practice to make reasonable inferences of the patient's best interest in allowing a person to act on behalf of the patient to pick up filled prescriptions, medical supplies, X-rays, or other similar forms of Protected Health Information. *45 C.F.R. § 164.510(b)(3).*

3. Uses and Disclosure When Patient is Deceased: Equinox, Inc. may disclose Protected Health Information of the patient to family members, close friends, other relatives, and any person previously identified by the patient unless doing so is inconsistent with any prior expressed preference of the patient. Such disclosure is limited to information directly relevant to that person's involvement with the patient. *45 C.F.R. § 164.510(b)(5).*
4. Use of Agency for Notification Purposes: Equinox, Inc. may disclose Protected Health Information to an agency that is authorized to assist with disaster relief efforts (such as the Red Cross) to coordinate the notification of individuals of a patient's location, general condition or death, as permitted by this Policy. *45 C.F.R. § 164.510(b)(4).*
5. Minimum Necessary: When making a disclosure pursuant to this Policy, Equinox, Inc. may only disclose the minimum amount of information necessary for the purpose of the disclosure. *See Policy No. 7 entitled "Minimum Necessary Uses, Disclosures and Requests of Protected Health Information." 45 C.F.R. § 164.502(b)(1).*
6. 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).*
7. 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 health care operations.