

**HIPAA Privacy Policy #17
Uses and Disclosures of Protected Health Information
for Marketing and Fundraising**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.501; 164.502; 164.508; 164.514; 164.520; 164.530;
Authorized by: Equinox Board of Directors	Version #:

Policy: Equinox, Inc. may use and disclose a patient’s Protected Health Information in marketing and fundraising activities according to the Procedures listed below. *45 C.F.R. § 164.514(f)(1).*

MARKETING

1. **Definition:** Marketing means all oral or written communications with a patient about a product or service that encourages the patient to purchase or use the product or service.
2. **Marketing Excludes:** Marketing does not include communications made:
 - a. To provide refill reminders or otherwise communicate about a drug or biologic that is currently being prescribed for the patient, only if any financial remuneration (direct or indirect payment from or on behalf of a third party whose product or service is being described) received by Equinox, Inc. in exchange for making the communication is reasonably related to the Equinox, Inc.’s cost of making the communication.
 - b. For the following treatment and health care operations purposes, ***except where Equinox, Inc. received financial remuneration in exchange for making the communication:***

For treatment of an individual by a health care provider, including for (i) case management or care coordination for the individual, or to direct or recommend alternative treatments, therapies, health care providers, or settings of care; (ii) to describe a health-related product or service (or payment for such product or service) that is provided by, or included in a plan of benefits of, the covered entity making the communication, including communications about: the entities participating in a health care provider network or health plan network, replacement of, or enhancements to, a health plan; and health-related products or services available only to a health plan enrollee that add value to, but are not part of, a plan of benefits; or (iii) for case management or care coordination, contacting of individuals with information about treatment alternatives, and related functions to the extent these activities do not fall within the definition of treatment.
3. **Authorization:** A valid authorization must be obtained to use Protected Health Information for marketing unless:
 - a. The communication is made face to face; or
 - b. The communication is in the form of a promotional gift of nominal value.

4. Financial Remuneration: If marketing involves financial remuneration to Equinox, Inc., the authorization must state that such remuneration is involved.
5. Opt-out: Patients have the right to opt-out of receiving certain types of marketing communications. All patient requests to opt-out of such communications, or any Marketing Opt-Out Forms should be forwarded to Equinox, Inc. authorized marketing personnel. See Attachment 1 form entitled "Opt-Out Form: Marketing."

FUNDRAISING

1. Definition: Fundraising is not defined by statute, but generally means, "any organized activity undertaken to raise funds or other things of value on behalf of Equinox, Inc."
2. Use and Disclosure: Equinox, Inc. may use and/or disclose the following information to a business associate or an institutionally related foundation for the purpose of raising funds for its benefit, if Equinox, Inc. previously gave the patient a written notice regarding Equinox, Inc.'s use of Protected Health Information and the disclosure is limited to the following:
 - Demographic information relating to an individual, including name, address, other contact information, age, gender, and date of birth;
 - Dates of health care provided to an individual;
 - Department of service information;
 - Treating physician;
 - Outcome information; and
 - Health insurance status.
3. May Not Condition Treatment: Equinox, Inc. may not condition treatment on the patient's choice with respect to the receipt of fundraising communications.
4. Opt-out: With each fundraising communication made, the patient must be provided with a clear and conspicuous opportunity to elect not to receive any further fundraising communications. The method for a patient to elect not to receive further fundraising communications may not cause the patient to incur an undue burden or more than nominal cost. Equinox, Inc. may not make fundraising communications to a patient where the patient has elected not to receive such communications. See Attachment 2 form entitled "Opt-Out Form: Fundraising."

Each fundraising contact will include the following information in bolded text at the bottom in a sized font similar to that used in communication. **IF YOU NO LONGER WISH TO RECEIVE INFORMATION REGARDING OUR FUNDRAISING ACTIVITIES, PLEASE CONTACT EQUINOX, INC.'s DEVELOPMENT OFFICE.**

5. Opt-in: Equinox, Inc. may provide a patient who has elected not to receive further fundraising communications with a method to opt back in to receiving such communications.

Procedures:

1. Adherence: Adherence to this Policy is primarily the responsibility of the Privacy Officer. Therefore, the Privacy Officer in conjunction with the Compliance Committee will determine the appropriate procedures necessary for Equinox, Inc. to be in full compliance with this Policy.

2. Notice of Privacy Practices: Equinox, Inc.'s Notice of Privacy Practices will include language indicating that most uses and disclosures of Protected Health Information for marketing and fundraising purposes require authorization from the individual, and that individuals may opt out of receiving information from Equinox, Inc. relating to marketing and fundraising.
3. 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. 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)(1).
4. Log of Disclosures: Equinox, Inc. is required to log disclosures 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.") 45 C.F.R. § 164.528(a); N.Y. Public Health Law § 18(6).

Forms

Form: Patient Opt-Out Form: Marketing

Form: Patient Opt-Out Form: Fundraising

REFERENCES

Health Insurance Portability and Accountability Act of 1996; 65 FR 82462, Dec. 28, 2000, as amended at 67 FR 53182, Aug. 14, 2002; 78 FR 5566, Jan. 25, 2013.

Attachment 1

OPT-OUT FORM: MARKETING

We have sent you information about a product or service that we thought would be of interest to you. If you do not want to receive such communications in the future, please complete this form and return it to the address provided below. We will make every reasonable effort to ensure that you will not receive any future marketing communications that you do not want.

PATIENT INFORMATION

Patient Name: _____
Last First MI

Address: _____

Telephone: _____ (daytime)
_____ (evening)

Email Address (optional)

OPT-OUT INFORMATION

Do you want to stop receiving ALL marketing communications from _____?

(Check one) _____ Yes _____ No

If you answered No above, please describe what types of materials you do not want to receive (including whether you are interested in receiving sample products): _____

What is the title of the marketing communication we sent you? (Optional): _____

Is there a reason that you do not want to receive future marketing communications? (Optional): _____

Signature of Patient or Personal Representative

SEND COMPLETED FORM TO:

Marketing/Communications
Equinox, Inc.

Print Name of Patient or Personal Representative

500 Central Avenue
Albany, NY 12206

Date

Description of Personal Representative's Authority

For Internal Use Only:

Date Received: (MM/DD/YY) ____/____/____

Name of Marketing Staff Member Processing This Form:

Attachment 2

OPT-OUT FORM: FUNDRAISING

We have sent you a fundraising communication that we thought may be of interest to you. If you do not want to receive such communications in the future, please complete this form and return it to the address provided below. We will make every reasonable effort to ensure that you will not receive any future fundraising communications that you do not want.

PATIENT INFORMATION

Patient Name: _____
Last First MI

Address: _____

Telephone: _____ (daytime)
_____ (evening)

Email Address (optional) _____

OPT-OUT INFORMATION

Do you want to stop receiving ALL fundraising communications from _____?

(Check one) _____ Yes _____ No

If you answered No above, please describe what types of fundraising materials you do not want to receive (including whether you are interested in receiving sample products): _____

What is the title of the fundraising communication we sent you? (Optional): _____

Is there a reason that you do not want to receive future fundraising communications? (Optional): _____

Signature of Patient or Personal Representation

SEND COMPLETED FORM TO:

Fundraising/Communications
Equinox, Inc.

Print Name of Patient or Personal Representative

500 Central Avenue
Albany, NY 12206

Date

Description of Personal Representative's Authority

For Internal Use Only:

Date Received: (MM/DD/YY) ____/____/____

Name of Fundraising Staff Member Processing This Form:
