

HIPAA Privacy Policy #30
Access to Protected Health Information

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.524; 164.530
Authorized by: Equinox Board of Directors	Version #:

Purpose: This Policy describes Equinox, Inc.’s responsibilities that relate to Access to Protected Health Information.

Policy: Equinox, Inc. will grant patients access to Protected Health Information in accordance with the Procedures listed below.

Procedures / Responsibilities:

1. **Right of Access:** Equinox, Inc. must afford every patient and his or her personal representative the right of access to inspect and obtain a copy of the patient’s Protected Health Information, except as provided in the Procedures below. *45 C.F.R. § 164.524(a)(1)*. See Attachment 1 form entitled “Patient Request For Access To Protected Health Information.”

***Note:** Protected Health Information includes medical charts, billing files, films and all other documents and physical material that contain information relating to the medical condition or treatment of a patient.*

2. **Responding to Requests:** All requests for access shall be directed to Equinox, Inc.’s Compliance Department which oversees medical records. The Compliance Department shall respond to all non-written requests by patients and their personal representatives for access to Protected Health Information by advising them to place their request in writing, and asking them to identify the specific record to which they want access (e.g., identify the relevant facility or provider). Patients and their personal representatives may request access to medical records in either paper or electronic form if Equinox, Inc. keeps electronic medical records. If written requests do not contain sufficient detail to identify the type of records requested or the location of such records, the Compliance Department shall promptly advise the requestor to provide additional details. The Compliance Department shall grant or deny access ***no later than 10 days*** after receiving the request for access. See Attachment 2 form entitled “Response to Request for a Copy of Protected Health Information.”
 - a. **Directed to Someone Other Than the Patient:** If a patient’s request for access directs Equinox, Inc. to transmit the Protected Health Information to a person other than the patient, Equinox, Inc. must follow that request. Such request must be in writing, signed by the patient, and clearly identify the designated person and where to send the information.
3. **Granting Access:** When Equinox, Inc. grants access to Protected Health Information, the Compliance Department must comply with the following provisions: *45 C.F.R. § 164.524(c)*.
 - a. **Contact Requestor:** After deciding to grant a request for access, the Compliance Department should contact the requesting party and provide the party with access to the Protected Health Information in the form and format requested, if it is readily producible in such form and format. If it is not readily producible in such form and format, Equinox, Inc. should attempt to make a mutually agreeable arrangement for access.

- b. Inspection of Paper Records:
- i. Convenient Time and Place: If inspection **of paper records** was requested, Equinox, Inc. must provide an opportunity to inspect information at a convenient time and place, no later than 10 days after receiving the request for access.
 - ii. Photocopies: If copies were requested, Equinox, Inc. must provide copies no later than thirty (30) days after receiving the request for access (or Equinox, Inc. must inform the requestor in writing that it is not possible to provide copies within thirty (30) days and inform the requestor that the records will be provided no later than sixty (60) days after receiving the request for access.) Equinox, Inc. may add thirty (30) days to the response times for providing photocopies of records that are maintained off-site.
 - iii. Fees: Equinox, Inc. may charge a reasonable fee for photocopying (not to exceed \$.75 per page), for mailing, and for summarizing Protected Health Information. Access may not be denied solely because of inability to pay.
- c. Inspection of Electronic Records: If Equinox, Inc. uses or maintains an electronic health record for the requesting patient, Equinox, Inc. must provide an electronic copy of the requested records, either to the patient or their personal representative, no later than ten (10) days after receiving the request.
- i. Fees: Equinox, Inc. may charge a reasonable fee for providing such patient with a copy of the Protected Health Information not to exceed Equinox, Inc.'s labor costs in responding to the request. *45 C.F.R. § 164.524(c)(4).*

4. Denial of Access

- a. Denial of Access Without An Opportunity For Review: Equinox, Inc. may deny a patient or his or her personal representative the right of access to inspect and obtain Protected Health Information in the following circumstances:
- i. Minors: Equinox, Inc. may deny access to records by a minor patient's parent or guardian if the parent or guardian did not consent for the patient's relevant treatment, or if the treating physician determines that such access would have a detrimental effect on provider's relationship with the minor patient, or on the care and treatment of the minor patient, or on the relationship between the minor patient and his or her parent or guardian. Additionally, the treating provider *may* inform a patient over the age of 12 that the patient's personal representative has requested access to the patient's records. If the patient objects to disclosure, the provider *may* deny the request. *N.Y. Public Health Law § 18(2)(c) and (3)(c).*
 - ii. Information Disclosed Confidentially by Someone Other Than a Health Care Provider: Equinox, Inc. may deny access to Protected Health Information obtained from someone other than a health care provider under a promise of confidentiality where access would be reasonably likely to reveal the source of the information. *45 C.F.R. § 164.524(a)(2)(v); N.Y. Public Health Law § 18(1)(e)(iv).*
 - iii. Endanger the Life or Safety: Equinox, Inc. may deny access if a licensed health care professional has determined, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient, or another person, *45 C.F.R. § 164.524(a)(3)(i)*, e.g., when an patient exhibits suicidal or homicidal tendencies. This exception is intended to apply

where the disclosure is reasonably likely to result in the patient committing suicide, murder or other physical violence, not because disclosure may cause emotional or psychological harm. *65 Fed. Reg. 82555 (Dec. 20, 2000)*.

- iv. Risk of Substantial and Identifiable Harm: Equinox, Inc. may deny access to records if the Protected Health Information references another person and the treating practitioner has determined that the requested review of information is reasonably expected to cause substantial and identifiable harm to such other person. *45 C.F.R. § 164.524(a)(3)(ii)*.
 - v. Research: Equinox, Inc. may deny access to information that was obtained in the course of research that included treatment as long as the research is in progress, the patient agreed to the denial of access when consenting to participate in the research, and Equinox, Inc. has informed the patient that the right of access will resume upon completion of the research. *45 C.F.R. § 164.524(a)(2)(iii)*.
 - vi. Civil/Criminal Proceeding: Equinox, Inc. may deny access to information compiled in anticipation of, or for use in, a civil, criminal or administrative action or proceeding.
 - vii. CLIA or Provider Records: Equinox, Inc. may deny access to records held by a CLIA certified laboratory that are otherwise available to the patient by the patient's health care provider.
- b. Denial of Access With An Opportunity For Review: Equinox, Inc. may deny a patient or his or her personal representative the right of access to inspect and obtain Protected Health Information, provided the patient is given a right to have such denial reviewed, if the patient has requested access to:
- i. Protected Health Information that Equinox, Inc. determines, in the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety or mental health of the patient or another person;
 - ii. Protected Health Information that makes reference to another person (unless the other person is a health care provider) and Equinox, Inc. determines, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to such other person; or
 - iii. Protected Health Information requested by a patient's personal representative and Equinox, Inc. determines, in the exercise of professional judgment, that the access requested is reasonably likely to cause substantial harm to the patient or another person.
- c. Written Denial: Equinox, Inc. must submit a written denial within the time frame outlined above, which contains the following: *45 C.F.R. § 164.524(d)(2)*. See Attachment 3 form entitled "Denial of Request to Access Protected Health Information."
- i. An explanation of the reason for the denial;
 - ii. An explanation of the patient's right to obtain, without cost, a review of the denial by the Privacy Officer; and
 - iii. An explanation of the patient's right to complain to Equinox, Inc. and to the Secretary of the Department of Health and Human Services, including the name,

title and telephone number of the person identified by Equinox, Inc. to receive complaints under Equinox, Inc.'s Policy No. 42 entitled "Complaints."

- d. Limit Denial: If Equinox, Inc. has grounds to deny access to only a portion of the requested information, then Equinox, Inc. must limit its denial accordingly and permit access to the remainder of the information requested. *45 C.F.R. § 164.524(d)(1)*.
 - e. Other Responsibility: If Equinox, Inc. does not maintain the Protected Health Information that is the subject of the patient's request for access, and Equinox, Inc. knows where the requested information is maintained, Equinox, Inc. must inform the patient where to direct the request for access. *45 C.F.R. § 164.524(d)(3)*.
6. Appeals: If a patient appeals Equinox, Inc.'s decision to deny access to Protected Health Information, Equinox, Inc. must comply with the following provisions *45 C.F.R. § 164.524(d)(4)*; *N.Y. Public Health Law § 18(3)(e)*. See Attachment 4 form entitled "Denial of Request to Access Protected Health Information – Results Review."
- a. Equinox, Inc. must, within ten (10) days of receiving the request, forward the Protected Health Information in question, with the patient's request to the chairperson of the appropriate Privacy Officer and with a statement setting forth the specific reasons for which access was denied;
 - b. If the Privacy Officer determines that Equinox, Inc. should not have denied access, then Equinox, Inc. will promptly grant access in accordance with the Privacy Officer's decision.

If your request is being made because of an emergency, please describe the nature of the emergency and the date you need the information. We cannot guarantee that we will meet your deadline, but we will do our very best to accommodate reasonable requests.

PATIENT UNDERSTANDING AND SIGNATURE

By signing below, I am requesting that Equinox, Inc. provide me with access to health information in the manner described above. I understand that I will be contacted if any fee for a summary or explanation may be charged for fulfilling this request, and that I will have an opportunity to modify or withdraw my request if I do not want to pay this fee.

Signature of Patient or Personal Representative

Print Name of Patient or Personal Representative

Date

Description of Personal Representative's Authority

SEND COMPLETED FORM TO:
_____, Privacy Officer
Equinox, Inc.
500 Central Avenue
Albany, NY 12206

For Internal Use Only:

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

Disposition of Request: ____ GRANTED ____ DENIED ____ PARTIALLY DENIED

Name or Initials of the Staff Member Processing This Request:

Attachamen 2

Response to Request for a Copy of Protected Health Information

Date:

PatientName:
Street Address:
City, State Zip:

Re: Request for a Copy of Protected Health Information

Dear _____:

This letter responds to your request for a copy of your Protected Health Information, which we received from you on _____.

We have been working diligently to determine whether we can grant your request. We are usually able to process requests for copies within 10 days if the records are maintained on-site at Equinox, Inc. and within 30 days if the records are maintained off-site at another facility.

Your records are maintained:

- ON-SITE OFF-SITE ON-SITE AND OFF-SITE

For the following reason(s) , we need an additional 30 days to respond to your request for copies of these records.

- We are having difficulty accessing the information requested.
- We are having difficulty preparing the information requested.
- We are having difficulty determining whether all, or part, of your request may be granted.

We expect to have the final answer for you no later than _____. If additional time is required, we will notify you again.

Please contact the Compliance Department at (____) ____-____ if you have questions or concerns about this delay.

Attachment 3

Denial of Request to Access Protected Health Information

Date:

PatientName:
Street Address:
City, State Zip:

Re: Denial of Request to Access Protected Health Information

Dear _____:

This letter responds to your request to access your Protected Health Information, which we received from you on _____. For the reasons stated below, we are denying your request for access to all or part of this information.

- The request was not in writing.
- The information requested is not available in records we use to make decisions about your treatment or benefits. However, this information may be available in records maintained by _____.
- You have requested access to psychotherapy notes which are not available for inspection and copying by any patients.
- We have obligations to other parties to keep the information you requested confidential. Our Medical Records Department staff has determined that granting your request would violate our confidentiality obligations.
- An authorized officer from a correctional institution has certified that granting your request to copy your information would jeopardize the health, safety, security, custody or rehabilitation of you, or another person.
- We believe that granting your request is reasonably likely to endanger a person's life or physical safety.
- The information you have requested refers to another person (who is not a health care provider), and we believe that granting your request is reasonably likely to cause substantial harm to that other person.
- You are the patient's personal representative, and we believe that granting your request is reasonably likely to cause substantial harm to the patient or a third-person.
- You are a parent or guardian of a minor who did not consent for the patient's relevant treatment, or we believe granting your request could have a detrimental effect on the provider's relationship with the minor patient.

- The information obtained was in the course of research and the patient agreed to the denial of access when consenting to participate in the research with the understanding the right of access will be reinstated once the research is complete.
- The information was compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative action or proceeding.
- Other _____

This denial applies to ALL or PART of the information you requested. We will provide you with a summary of any information we cannot permit you to access. If we are denying only part of your request, you will be given complete access to the remaining information after we have excluded the parts that we cannot permit you to access.

You have the right to have this decision reviewed by a licensed health care professional who was not directly involved in our initial decision to deny your request. If you want to exercise this right, please contact the Privacy Officer, _____, at (____) ____-____. We will comply with the health care professional's decision. If the health care professional agrees with our decision, you will have the opportunity to seek further review by a special committee appointed by the State of New York.

If you believe that we have improperly handled your request to access your Protected Health Information, you may file a complaint with us or with the Secretary of the United States Department of Health and Human Services. To file a complaint with us, please contact the Privacy Officer at (____) ____-____. *No one will retaliate or take action against you for filing a complaint.*

Attachment 4

Denial of Request to Access Protected Health Information – Results of Review

Date:

Patient Name:
Street Address:
City, State Zip:

Re: Denial of Request to Access Protected Health Information – Results of Review

Dear _____:

This letter notifies you of the results of the review provided by a licensed health care professional who was not directly involved in our initial decision to deny your request to access your Protected Health Information. The name of the health care professional who reviewed your request is [_____]. [_____] has reached the following conclusion.

- Your request was properly denied for the reason provided in Equinox, Inc.'s initial notice.
- Your request was improperly denied for the reason provided in the Equinox, Inc.'s initial notice, but is properly denied for another reason, which is _____.
- Your request was properly denied with respect to part of the information. The request was not properly denied for another part of the information. Please contact the Medical Records Department at (____) ____-____ to set up an appointment to inspect the information which you are entitled to access. If you have requested copies, we will provide them in the manner requested on your initial request form after we have removed the information that we cannot permit you to access.
- Your request was improperly denied. Please contact the Medical Records Department at (____) ____-____ to set up an appointment to inspect the information. If you have requested copies, we will provide them in the manner requested on your initial request form.

You have the right to have this decision reviewed by a committee appointed by the State of New York. If you want to exercise this right, please complete the form included with this denial notice and send it to the address provided on the form.

If you believe that we have improperly handled your request to access your Protected Health Information, you may file a complaint with us or with the Secretary of the United States Department of Health and Human Services. To file a complaint with us, please contact the Privacy Officer at (____) ____-____. *No one will retaliate or take action against you for filing a complaint.*