

HIPAA Privacy Policy #31
Amendment of Protected Health Information

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| Effective Date: January 22, 2020 | Refer to Privacy Rule Sections: 164.504; 164.524; 164.526; 164.530 |
| Authorized by: Equinox Board of Directors | Version #: |

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

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

Procedures / Responsibilities:

1. **Right to Amend:** Equinox, Inc. must afford every patient and his or her personal representative the right to amend or to challenge the accuracy of the patient’s Protected Health Information, except as provided in the Procedures below. *45 C.F.R. § 164.526(a)(1).*
2. **Denial of Amendment:** Equinox, Inc. may deny a patient or their personal representative the right to challenge or amend Protected Health Information in the following circumstances: *45 C.F.R. § 164.526(a)(2).*
 - a. **Information was not Created by Equinox, Inc.:** Equinox, Inc. may deny amendment of Protected Health Information that was not created by Equinox, Inc., unless the patient or personal representative provides a reasonable basis to believe that the originator of the information is no longer available to act upon their requested amendment. *45 C.F.R. § 164.526(a)(2)(i).*
 - b. **Information is not Part of Designated Record Set:** Equinox, Inc. may deny amendment of Protected Health Information that is not maintained in a set or group of records used to make decisions about the patient (such as a medical record or account file). *45 C.F.R. § 164.526(a)(2)(ii).*
 - c. **Information Would not be Available for Inspection:** Equinox, Inc. may deny amendment of Protected Health Information that would be unavailable for inspection under Equinox, Inc.’s Policy No. 30 entitled “Access to Protected Health Information.” *45 C.F.R. § 164.526(a)(2)(iii).*
 - d. **Information is Accurate and Complete:** Equinox, Inc. may deny amendment of Protected Health Information that is accurate and complete. *45 C.F.R. § 164.526(a)(2)(iv).*
3. **Responding to Requests:** All challenges to accuracy and requests for amendment shall be directed to Equinox, Inc.’s Compliance Department. The Compliance Department shall respond to all requests by patients and their personal representatives for amendment of Protected Health

Information by delivering and requesting Equinox, Inc.'s form entitled "Request for Amendment of Protected Health Information" be completed (*See Attachment 1*). The ComDepartment shall deliver all requests that are submitted on Equinox, Inc.'s form to the originating author of the relevant Protected Health Information or to the relevant Medical Director if the originating author is unavailable. The Compliance Department shall consult with the originating author or Medical Director and shall take one of the following actions within sixty (60) days after receiving the request: *45 C.F.R. § 164.524(b)(1)*

- a. Deny the request in writing. *45 C.F.R. § 164.524(b)(2)(i)(B)*;
 - b. Grant the request and make the amendment. *45 C.F.R. § 164.524(b)(2)(i)(A)*; or
 - c. Explain in writing the specific reasons that will prevent Equinox, Inc. from granting or denying the request within sixty (60) days and explain that Equinox, Inc. will either grant or deny the request no later than ninety (90) days after the request was received. *45 C.F.R. § 164.524(b)(2)(ii)*.
4. Granting Amendments: When Equinox, Inc. decides to grant an amendment to Protected Health Information contained in a Designated Record Set, Equinox, Inc. must comply with the following provisions:
- a. Hard Copy Record Amendments: After deciding to grant an amendment, the Compliance Department will ensure that the originating author or Medical Director takes the following steps for hard copy records:
 - i. Identify all records in the Designated Record Set that are affected by the amendment.
 - ii. Do not obliterate, destroy, erase or black-out the information to be amended.
 - iii. For minor amendments (such as correcting a few words, figures, or values), simply strike a single line through the incorrect information and insert the correct information above the incorrect information with a date and the writer's initials.
 - iv. For all other amendments, strike a single line through the incorrect information followed by an asterisk and a note which reads: "this information is hereby amended by record entry of [date] entitled 'AMENDMENT.'" *45 C.F.R. § 164.526(c)(1)*.
 - b. Electronic Record Amendments: All amendments to electronic medical records shall be made by addendum.
 - c. Contact Requestor: The Compliance Department will contact the patient who requested the amendment to inform him or her that the amendment has been made. *45 C.F.R. § 164.526(c)(2)*.
 - d. Contact Others: The Compliance Department will provide the amendment to any person who the Compliance Department believes may have relied on, or who might foreseeably rely on, the original information to the patient's detriment. In addition, the Compliance Department will provide the amendment to any persons listed by the requestor on Equinox,

Inc.'s form entitled "Request for Amendment of Protected Health Information." 45 C.F.R. § 164.526(c)(3)(i) and (ii).

- e. Future Disclosures: If Equinox, Inc. grants an amendment, then Equinox, Inc. must ensure that the amendment is included with all future disclosures of the amended information. 45 C.F.R. § 164.526(c)(5).
5. Denying Amendment: When Equinox, Inc. denies an amendment of Protected Health Information contained in a Designated Record Set, Equinox, Inc. must comply with the following provisions:
 - a. Written Denial: The Compliance Department must submit a written denial within the time frame set forth in the paragraph above entitled "Responding to Requests" using the form entitled "Denial of Amendment" (See Attachment 2). 45 C.F.R. § 164.524(d)(2).
 - b. Rebuttal to Statement of Disagreement: If Equinox, Inc. receives a Statement of Disagreement in response to our Denial of Amendment, the Compliance Department (in conjunction with the originating author or Medical Director) may write a Rebuttal Statement. If Equinox, Inc. prepares a Rebuttal Statement, a copy must be delivered to the patient who submitted the Statement of Disagreement. 45 C.F.R. § 164.526(d)(3).
 - c. Append Record: If Equinox, Inc. denies a request for amendment, the Compliance Department must attach the request and the Denial of Amendment to the patient's medical record. Likewise, if the requestor submits a Statement of Disagreement, it must be added to the medical record, along with Equinox, Inc.'s Rebuttal Statement, if any. 45 C.F.R. § 164.526(d)(4).
 - d. Future Disclosures: If Equinox, Inc. denies an amendment, the Compliance Department must include copies of the Request for Amendment, Denial of Amendment, Statement of Disagreement and Rebuttal Statement (if any) with subsequent disclosures of the information that was the subject of the request for amendment if the requestor requests such action. 45 C.F.R. § 164.526(d)(5).
 6. Actions on Notices of Amendment: If Equinox, Inc. is informed by another covered entity of an amendment to a patient's Protected Health Information, Equinox, Inc. must amend the Protected Health Information in Designated Record Sets. 45 C.F.R. § 164.526(e).
 7. Adding a Statement to the Medical Record: A patient and his or her personal representative may add a short statement to the medical record to challenge specific information contained in the medical record, and it will be released with the record whenever the information being challenged in the statement is disclosed. Equinox, Inc. may place reasonable restriction on the length and frequency of challenges to accuracy. *N. Y. Public Health Law § 18; N.Y. Mental Hygiene Law.*

Attachment 1

Request for Amendment of Protected Health Information

(To be completed by the patient or the patient's personal representative)

Patient's Name: _____

Date(s) of treatment: _____

I believe that Equinox, Inc. is maintaining the following information about me that is incorrect or incomplete: _____

I hereby ask Equinox, Inc. to amend my information as follows: _____

I understand and agree that if Equinox, Inc. grants this request for amendment, Equinox, Inc. will notify and provide the amendment to any person who Equinox, Inc. believes may have relied on, or who might foreseeably rely on, the original information to my detriment. In addition, I request that Equinox, Inc. notify and provide the amendment to the following providers who previously received the information that is subject to this request and who need the amendment:

Attachment 2

Denial of Amendment

Dear _____ :

Date: _____

After carefully considering your request for amendment of Protected Health Information, we regrettably deny your request. Our decision was based upon the following factors:

- We did not create the information that you asked us to amend, and you did not provide us with a reasonable basis to believe that the originator of the information is no longer available to act on the requested amendment;
- The information that you asked us to amend is not part of a Designated Record Set. *A Designated Record Set is any group of medical records and billing records about a patient maintained by Equinox, Inc. or any group of records used by Equinox, Inc. to make decisions about a patient;*
- The information that you asked us to amend would not be available for you to inspect according to state or Federal privacy regulations;
- The information that you asked us to amend is accurate and complete.

According to Federal privacy regulations, you have the right to submit a written statement disagreeing with our decision to deny your request. If you decide to submit such a statement, write it on one side of a standard (8½" by 11") piece of paper and send it to the address below.

If you decide not to submit a written statement of disagreement, you may request that we provide your original request for amendment along with a copy of this denial with any future disclosure of the information that you asked us to amend. If you want us to include such material with future disclosures, please inform us in writing at the address below.

Additionally, if you believe that we have violated your rights or failed to comply with our obligations under Federal privacy regulations, you have the right to complain to the Secretary of the Department of Health and Human Services by sending the Secretary a written complaint within 180 days of the date of this letter. You may also complain to Equinox, Inc. by sending a written complaint to the address below.

Send all correspondence to Equinox, Inc. in response to this letter to:

Title/Name: _____
Address: 500 Central Avenue
Albany, NY 12206
Telephone: (518) 435-9931

Very Truly Yours,