

**HIPAA Privacy Policy #32**  
**Accounting of Disclosures**

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

**Policy:** The HIPAA Privacy Rules requires that patients have a right to receive an accounting of various instances when Protected Health Information about them is disclosed by Equinox, Inc., subject to certain exceptions. Equinox, Inc. has developed Policies and Procedures to address the accounting requirements.

**Procedures:**

1. **Document Disclosures:** Equinox, Inc. must document most disclosures of Protected Health Information in the patient’s medical record. Attachment 1 form entitled “Log for Accounting of Disclosures” should be copied and placed in each patient’s medical record. Equinox, Inc. must document all disclosures of Protected Health Information in each patient’s Log, except for the following types of disclosures:<sup>1</sup>
  - a. **Treatment, Payment, Health Care Operations:**<sup>2</sup> Disclosures of Protected Health Information records created in hard copy format to carry out treatment, payment and health care operations. However, disclosures of Protected Health Information to carry out treatment, payment and health care operations made through an electronic health record

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<sup>1</sup> New York’s Public Health Law § 18 independently requires Equinox, Inc. to make a notation in a patient’s file or record of the purpose for every disclosure of “patient information” except for the following disclosures:

1. disclosures made to the subject of the information and to other “qualified persons” (as defined by Public Health Law §18, such as a parent of a minor patient);
2. disclosures made pursuant to a patient’s written authorization (in which case a copy of the authorization must be added to the patient’s file or record);
3. disclosures made to government agencies and insurance companies making payments on behalf of patients (in which case only the initial disclosure to such entity must be noted in the patient’s file or record);
4. disclosures made to practitioners or other personnel employed by or under contract with Equinox, Inc.; and
5. disclosures made to government agencies for purposes of facility inspections or professional conduct investigations.

Equinox, Inc. must document disclosures of information in accordance with Public Health Law § 18 even in cases where this Policy would not require documentation in the “Log for Accounting of Disclosures.” For example, Equinox, Inc. would be required by N.Y. Public Health Law § 18 to make a notation of disclosures made to a collection agency to collect payment for services rendered and a notation of purpose of such disclosure in the patient’s file or record because there is no exception for disclosures made for general “Payment purposes” under N.Y. Public Health Law § 18.

<sup>2</sup> 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 health care operations if such disclosures are through an electronic health record. As of July 2019, the revisions to the Privacy Rule has yet to be finalized, but it remains a requirement that patients receive an accounting of disclosure for treatment, payment, health care operations from an electronic health record as defined by HITECH.

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. c Health Law § 18(6).**

- b. Patient: Disclosures made to the patient or their personal representatives;
  - c. Authorization: Disclosures made pursuant to a patient's Authorization;
  - d. Friends and Family: Disclosures made in accordance with Equinox, Inc.'s Policy No. 16 entitled "Uses and Disclosures of Protected Health Information Without Patient Authorization to Family and Friends";
  - e. National Security/Intelligence: Disclosures made for national security or intelligence purposes;
  - f. Patients in Custody: Disclosures made to correctional institutions or law enforcement officials about patients in their lawful custody;
  - g. Limited Data Set: Disclosures made as part of a "limited data set" as defined in Equinox, Inc.'s Policy No. 26 entitled "Uses and Disclosures of Protected Health Information Without Patient Authorization for Research;" and
  - h. Incidental Use or Disclosure: Incident to a use or disclosure permitted or required under applicable law.
2. Provide Accounting: Equinox, Inc. must provide a copy of the Log for Accounting of Disclosures contained in a patient's file or record at the request of the patient or his or her personal representative in the six (6) years prior to the date on which the accounting is requested for written records that are subject to the accounting requirement and three (3) years for electronic records (*See Attachment 2* form entitled "Patient Request For Accounting of Disclosures"), according to the following criteria:
- a. Timing of Accounting: Within sixty (60) days after receiving a request for an accounting, Equinox, Inc. must either:
    - i. provide the Accounting, or
    - ii. provide a written statement explaining the reason that Equinox, Inc. will be unable to provide a copy of the Accounting within sixty (60) days and provide a date by which Equinox, Inc. will provide a copy, which may be no later than ninety (90) days after the request for Accounting was received. *45 C.F.R. § 164.528(c). See Attachment 3* form entitled Response to Request for Accounting of Disclosures 30 Day Extension."
  - b. Charge for Accounting: Equinox, Inc. must provide the first Accounting to a patient in any twelve (12) month period without charge. *See Attachment 4* form entitled "Response to Request for Accounting of Disclosures." Equinox, Inc. may charge a patient a reasonable

cost-based fee for additional Accountings within any twelve (12) month period. If Equinox, Inc. intends to charge a patient for an Accounting, Equinox, Inc. must:

- i. calculate the reasonable fee for the Accounting;
- ii. send a written notice to the patient (preferably within one week after receiving the request for Accounting) that describes the fee;
- iii. inform the patient that he or she may withdraw or modify the request within one week in order to avoid or eliminate the fee; and
- iv. wait one week before providing the Accounting in order to permit the patient to withdraw or modify the request. *45 C.F.R. § 164.528(c)(2)*.

3. Suspension of Right to Accounting: In some limited circumstances, law enforcement officials and health oversight agencies may ask Equinox, Inc. to suspend a patient's right to receive an Accounting of Disclosures. Equinox, Inc. must temporarily suspend a patient's right to receive an Accounting as follows: *45 C.F.R. § 164.528(A)(2)*

- a. Written Statement: If the agency or official provides Equinox, Inc. with a written statement that explains that an Accounting to a patient would be reasonably likely to impede the agency's activities and that sets forth a time for which the suspension is required, Equinox, Inc. must temporarily suspend the patient's right to receive an Accounting for the time specified in the written statement.
- b. Oral Statement: If the agency or official provides Equinox, Inc. with an oral statement that explains that an Accounting to a patient would be reasonably likely to impede the agency's activities and that sets forth a time for which the suspension is required, Equinox, Inc. must:
  - i. document the statement, including the identity of the agency or official making the statement;
  - ii. temporarily suspend the patient's right to an Accounting for no longer than thirty (30) days from the date of the oral statement.

Attachment 1

**Log for Accounting of Disclosures**  
*(To be inserted in patient's file or record)*

Patient's Name: \_\_\_\_\_

Page \_\_\_\_\_

Date of disclosure	Name of person or entity who received information (and address, if known)	Description of information disclosed	Purpose of disclosure



\_\_\_\_\_  
Signature of Patient or Personal Representative

**SEND COMPLETED FORM TO:**

\_\_\_\_\_  
Print Name of Patient or Personal Representative

\_\_\_\_\_, Privacy Officer  
Equinox, Inc.  
500 Central Avenue  
Albany, NY 12206

\_\_\_\_\_  
Date

\_\_\_\_\_  
Description of Personal Representative's Authority

**For Internal Use Only:**

Date Received: (MM/DD/YY) \_\_\_\_/\_\_\_\_/\_\_\_\_

Date Request Was Fulfilled/Completed: (MM/DD/YY) \_\_\_\_/\_\_\_\_/\_\_\_\_

Fee Charged for Fulfilling This Request (if applicable): \$ \_\_\_\_\_

Name of Records Department Staff Member Processing This Request:

\_\_\_\_\_

Attachment 3

**Response to Request for Accounting of Disclosures  
30 Day Extension**

Date:

Patient Name:

StreetAddress:

City, State Zip:

Re: Request for Accounting List

Dear \_\_\_\_\_:

This letter responds to your request for an accounting list, which we received from you on \_\_\_\_\_.

We have been working hard to produce the accounting list you have requested. We are usually able to provide these lists within 60 days. However, due to unusual difficulties retrieving the information for the list that you have requested, we need an additional 30 days to fulfill your request. We expect to have the list available for you no later than \_\_\_\_\_.

Please contact the Medical Records Department at (\_\_\_\_) \_\_\_\_ - \_\_\_\_ if you have questions or concerns about this delay.

Attachment 4

**Response to Request for Accounting of Disclosures**

Date:

Patient Name:  
Street Address:  
City, State Zip:

Re: Request for Accounting List

Dear \_\_\_\_\_:

This letter responds to your request for an accounting of disclosures list, which we received from you on \_\_\_\_\_.

You are entitled to one free accounting list every 12 months. Our records indicate that you have already requested and received a free accounting list in the past 12 months. That list was provided on \_\_\_\_\_. If you ask us to proceed with your request for an additional accounting list, we will charge a fee of \$\_\_\_\_\_ to recover the costs of providing the list.

We want you to know that you have the following options:

- You may ask us to proceed with your request and pay the fee provided in this letter.
- You may modify your request for an accounting of disclosures list and reduce the applicable fee.
- You may withdraw your request and pay no fee.

Please contact the Medical Records Department at (\_\_\_\_) \_\_\_\_-\_\_\_\_ to discuss your preferences and arrange for payment of any applicable fees. If we do not hear from you within 7 days, we will assume that you have decided to withdraw your request.