

**HIPAA Privacy Policy #19
Uses and Disclosures of Protected Health Information
Without Patient Authorization for
Law Enforcement Purposes**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.103; 164.502; 164.512; 164.28; 164.530
Authorized by: Equinox Board of Directors	Version #: v.

Policy: Equinox, Inc. may use and disclose Protected Health Information to law enforcement officials for law enforcement purposes without a patient’s written Authorization according to the Procedures listed below.

**Note: This Policy does not apply to disclosures to law enforcement officials of evidence of abuse, neglect or domestic violence. For these disclosures, see Equinox, Inc.’s Policy No. 23 entitled “Uses and Disclosures of Protected Health Information Without Patient Authorization for Suspected Abuse, Neglect or Domestic Violence.”*

Procedures:

1. **Required by Law:** Equinox, Inc. may disclose Protected Health Information to law enforcement officials as required by law under the following circumstances:
 - a. **Laws:** Equinox, Inc. may disclose Protected Health Information pursuant to laws that require disclosure of certain wounds and physical injuries (**See Note above*) such as wounds inflicted by firearms, knife wounds likely to result in death and severe burn injuries. *45 C.F.R. § 164.512(f)(1)(i); N.Y. CLS Penal § 265.25; N.Y. CLS Penal § 265.26.*
 - b. **Court Ordered Process:** Equinox, Inc. may disclose Protected Health Information pursuant to court orders, court-ordered warrants, judicial subpoenas, judicial summons and grand jury subpoenas (not subpoenas signed by attorneys). *45 C.F.R. § 164.512(f)(1)(ii); N.Y. Gen. Bus. Law § 394-e(1); and*
 - c. **Government Administrative Requests:** Equinox, Inc. may disclose Protected Health Information in response to a government administrative request (such as an administrative subpoena or civil investigative demand) as long as an official from the requesting agency completes Attachment 1 form labeled “Administrative Request for Information.” *45 C.F.R. § 164.512(f)(1)(ii)(C); N.Y. Public Health Law § 18(6).*

2. **Upon Law Enforcement Official’s Request:** Equinox, Inc. may disclose limited Protected Health Information to law enforcement officials upon their request under the following circumstances:
 - a. **To Identify or Locate a Person:** Equinox, Inc. may disclose the following Protected Health Information in response to a law enforcement official’s request to locate or identify a suspect, fugitive, material witness or missing person: *45 C.F.R. § 164.512(f).*
 - i. name and address; *45 C.F.R. § 164.512(f)(2)(i)(A);*
 - ii. date and place of birth; *45 C.F.R. § 164.512(f)(2)(i)(B);*

- iii. social security number; *45 C.F.R. § 164.512(f)(2)(i)(C)*;
 - iv. blood type and rh factor; *45 C.F.R. § 164.512(f)(2)(i)(D)*;
 - v. type of injury; *45 C.F.R. § 164.512(f)(2)(i)(E)*;
 - vi. date and time of treatment; *45 C.F.R. § 164.512(f)(2)(i)(F)*; and
 - vii. date and time of death; *45 C.F.R. § 164.512(f)(2)(i)(G)*.
 - viii. description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars and tattoos. *45 C.F.R. § 164.512(f)(2)(i)(H)*.
- b. About Victims of Crimes: Equinox, Inc. may disclose Protected Health Information in response to a law enforcement official's request about a victim of a crime other than the information listed above if the victim agrees to the disclosure. Equinox, Inc. may also disclose Protected Health Information if the victim is unable to consent to the disclosure because of incapacity or other emergency circumstances, provided that the law enforcement official requests that such information is needed to determine whether a violation of law by a person other than the victim has occurred, that such information is not intended to be used against the victim; and that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and the disclosure is in the best interests of the individual as determined by Equinox, Inc., in exercise of professional judgment; or if the law enforcement official completes the Attachment 2 form, "Request for Information About a Victim of a Crime." *45 C.F.R. § 164.512(f)(3)*.
- c. Protected Health Information that May Not be Disclosed: Equinox, Inc. may not disclose the following Protected Health Information in a response to a law enforcement official's request to locate or identify a suspect, fugitive, material witness or missing person:
- i. DNA or DNA analysis; *45 C.F.R. § 164.512(f)(2)(ii)*;
 - ii. dental records, or typing; *45 C.F.R. § 164.512(f)(2)(ii)*; or
 - iii. samples or analysis of body fluids or tissues; *45 C.F.R. § 164.512(f)(2)(ii)*.
3. Upon Equinox, Inc.'s Own Initiative: Equinox, Inc. may disclose Protected Health Information to law enforcement officials upon Equinox, Inc.'s own initiative under the following circumstances:
- a. Deaths Caused by Criminal Activity: Equinox, Inc. may disclose Protected Health Information to law enforcement officials about a patient who has died for the purpose of alerting law enforcement of the death of the individual if Equinox, Inc. has a suspicion that such death may have resulted from criminal conduct. For example, Equinox, Inc. may disclose information about a person who was murdered. Equinox, Inc. may also disclose information about a person who died as a result of committing a crime. *45 C.F.R. § 164.512(f)(4)*.
 - b. Responding to Emergencies Off-Premises: Equinox, Inc. may disclose Protected Health Information to law enforcement officials that Equinox, Inc. obtained in responding to a

medical emergency (*see note above) outside of Equinox, Inc.'s practice locations if it appears necessary to alert a law enforcement official to:

- i. the commission and nature of a crime, *45 C.F.R. § 164.512(f)(6)(i)(A)*;
 - ii. the location of a crime or the location of the victim, *45 C.F.R. § 164.512(f)(4)(i)(B)*; and
 - iii. the identity, description, and location of the perpetrator of such crime, *45 C.F.R. § 164.512(f)(4)(i)(C)*.
- c. Crime on Premises: Equinox, Inc. may disclose Protected Health Information to a law enforcement official if Equinox, Inc. believes in good faith that such information is evidence of criminal conduct that occurred on Equinox, Inc.'s premises. *45 C.F.R. § 164.512(f)(5)*.
 - d. Escapee: Equinox, Inc. may disclose Protected Health Information to law enforcement officials to allow law enforcement officials to apprehend an individual if it appears that the individual has escaped from lawful custody. *45 C.F.R. § 164.512(j)(1)(ii)(B)*.
 - e. Confession: If a patient makes a statement that he or she was involved in a crime and if Equinox, Inc. believes that the crime may have caused serious physical injury to another individual, Equinox, Inc. may disclose Protected Health Information to law enforcement officials: *45 C.F.R. § 164.512(j)(1)(ii)(A)*. Use or disclosure is not permitted if the patient's statement of confession is learned by Equinox, Inc. during the course of treatment of the patient to affect the propensity to commit the criminal conduct that is the basis for the disclosure, or during counseling or therapy, or through a request by the patient to be referred for treatment, counseling or therapy.
4. 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 use or disclosure. (See Equinox, Inc.'s Policy No. 7 entitled "Minimum Necessary Uses, Disclosures and Requests of Protected Health Information.") *45 C.F.R. § 164.502(b)*.
 5. Log of Disclosures: Equinox, Inc. is required to log disclosures for law enforcement purposes 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)(2)*; *N.Y. Public Health Law § 18(6)*.
 6. 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."

Attachment 1

Administrative Request for Information

To be completed by an authorized representative of a government agency

Patient's Name: _____

I hereby certify that this agency needs information regarding the above-named patient as more fully described in the attached administrative request, (such as an administrative subpoena or civil investigative demand). I further certify that:

1. the information sought is relevant and material to a legitimate law enforcement inquiry;
2. the request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and
3. de-identified information, (which is redacted by removing all information that could be used to identify the patient), could not reasonably be used.

Signature: _____ Date: _____

Name: _____

Agency Name and Address: _____

Attachment 2

Request for Information About a Victim of a Crime

To be completed by a law enforcement official

Patient's Name: _____

I hereby certify that this agency needs information about the above-named patient, who is suspected to be the victim of a crime. This information is needed to determine whether a person (other than the above-named patient) committed a crime. This agency does not intend to use the requested information against the above-named patient. Additionally, I certify that an immediate law enforcement activity depends upon the disclosure of information. I understand that the above-named patient is currently unable to agree to the disclosure. However, the law enforcement activity would be materially and adversely affected by waiting until the above-named patient is able to agree to the disclosure.

Signature: _____ Date: _____

Name: _____

Agency Name and Address: _____
