

**HIPAA Privacy Policy #22  
Uses and Disclosures of Protected Health Information  
Without Patient Authorization for  
Specialized Government Functions**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.512; 164.514; 164.528; 164.530
Authorized by: Equinox Board of Directors	Version #:

**Policy:** Equinox, Inc. may disclose Protected Health Information for specialized government functions without a patient’s written Authorization according to the Procedures listed below.

**Procedures:**

1. **Military Activities:** Equinox, Inc. may use and disclose Protected Health Information of patients who are members of the Armed Forces (of the United States and foreign nations) for the proper execution of the military mission, only in accordance with notices that may be published by military authorities in the Federal Register.
2. **Appropriate Officials:** Military command authorities, capable of using and disclosing Protected Health Information of patients in the Armed Forces, are:
  - a. All commanders exercising authority over members of the Armed Forces and their designees; and
  - b. The Secretary of Defense and the Secretary of the Military Department responsible for the Armed Force for which the individual is a member, or the Secretary of Homeland Security when a member of the Coast Guard is not operating as a service in the Department of the Navy. *68 Fed. Reg. 17357 (April 9, 2003) and 74 Fed. Reg. 27004 (June 5, 2009).*
3. **Reasons for Disclosure:** Protected Health Information may be used or disclosed as follows:
  - a. **For all Armed Forces Members:**
    - i. To determine the member’s fitness for duty, including but not limited to, the member’s compliance with standards and all activities carried out under the Department of Defense (“DoD”) Directive 1308.1 “DoD Physical Fitness and Body Fat Program,” DoD Instruction 1332.38, “Physical Disability Evaluation,” DoD Directive 5210.42, “Nuclear Weapons Personnel Reliability Program” and similar requirements;
    - ii. To determine the member’s fitness to perform any particular mission, assignment, order, or duty, including compliance with any actions required as a precondition to such performance;
    - iii. To carry out activities under the authority of DoD Directive 6490.2, “Joint Medical Surveillance;”

- iv. To report on casualties in any military operation or activity in accordance with applicable military regulations or procedure; and
  - v. To carry out any other activity necessary to the proper execution of the Armed Forces. *68 Fed. Reg. 17357-58.*
- b. For members of the Coast Guard or members of the other Armed Forces falling within the Coast Guard’s jurisdiction:
- i. To determine fitness for duty, including but not limited to:
    - (A) “Allowable Weight Standards for the Health and Well-being of Coast Guard Military Personnel,” pursuant to COMDTINST M1020.8 (series);
    - (B) “Physical Disability Evaluation System,” pursuant to COMDTINST M1850.2 (series);
    - (C) “Coast Guard Periodic Health Assessment,” pursuant to COMDTINST 6150.3 (series); and
    - (D) Similar requirements pertaining to fitness for duty.
  - ii. To carry out activities under the authority of COMDTINST M6000.1 (series), “The Coast Guard Medical Manual,” Chapter 12 (Occupational Medical Surveillance Evaluation Program).

*45 C.F.R. § 164.512(k)(1)(i)(A)–(B).*

4. National Security and Intelligence: Equinox, Inc. may disclose Protected Health Information to authorized Federal officials for the conduct of lawful intelligence, counter-intelligence, and other national security activities. *45 C.F.R. § 164.512(k)(2).*
5. Protective Services for Public Officials: Equinox, Inc. may disclose Protected Health Information to authorized Federal officials for the provision of protective services to the President, heads of State and other public officials. *45 C.F.R. § 164.512(k)(3).*
6. Patients in Lawful Custody: Equinox, Inc. may disclose Protected Health Information of a patient to a correctional institution or law enforcement official who has custody of the patient if the correctional institution or law enforcement official completes Attachment 1 form entitled “Certification of Need for Information Regarding Individual in Custody.” *45 C.F.R. § 164.512(k)(5).*
7. 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. *See Equinox, Inc.’s Policy No. 7* entitled “Minimum Necessary Uses, Disclosures and Requests of Protected Health Information.” *45 C.F.R. § 164.514(d)(3)(i).*

8. Log of Disclosures:

- a. National Security and Intelligence and Patients in Custody: Equinox, Inc. is not required to log disclosures for National Security and Intelligence purposes or disclosures relating to patients in lawful custody in the patient's Log for Accounting of Disclosures (*See* Equinox, Inc.'s Policy No. 32 entitled "Accounting of Disclosures").<sup>1</sup> **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. Public Health Law § 18(6).**
- b. Military Activities and Protective Services: Equinox, Inc. must log disclosures for Military Activities and for Protective Services in the patient's Log for Accounting of Disclosures (*See* Equinox, Inc.'s Policy No. 32 entitled "Accounting of Disclosures.") *N.Y. Public Health Law § 18(6).*

9. 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."

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<sup>1</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 healthcare operations if such disclosures are through an electronic health record. In May 2010, HHS issued a Request for Information in the Federal Register seeking comments from the public on the interests of various constituencies concerning this new accounting requirement. HHS is still working on preparing guidance on this issue, and the Privacy Rule does not currently contain a requirement that Covered Entities account for disclosures of electronic health records containing Protected Health Information to carry out treatment, payment and health care operations.

Attachment 1

**Certification of Need for Information Regarding Individual in Custody**

*To be completed by an appropriate law enforcement official*

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

I hereby certify that the above-named patient is in lawful custody of a correctional institution or law enforcement official and that such correctional facility or law enforcement official requires the patient's Protected Health Information for the following purpose (select appropriate purpose):

- (1) for the provision of health care to the above-named patient;
- (2) for the health and safety of the above-named patient or others at the correctional institution;
- (3) for the health and safety of the officers, employees, or others at the correctional institution;
- (4) for the health and safety of persons responsible for the transportation of inmates;
- (5) for law enforcement on the premises of the correctional institution; or
- (6) for the administration and maintenance of the safety, security and good order of the correctional institution.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Agency/Employer: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_