

**HIPAA Privacy Policy #23  
Uses and Disclosures of Protected Health Information  
Without Patient Authorization for  
Suspected Abuse, Neglect or Domestic Violence**

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 about a patient whom Equinox, Inc. reasonably believes to be victim of abuse, neglect or domestic violence without the patient’s written Authorization according to the Procedures listed below. *45 C.F.R. § 164.512(c)(1)*.

**Procedures:**

1. **Child Abuse:** Equinox, Inc. may disclose Protected Health Information about a minor whom Equinox, Inc. reasonably believes to be a victim of abuse, neglect or maltreatment as follows:
  - a. **Learn of Abuse from Victim:** Equinox, Inc. may disclose Protected Health Information about a minor that Equinox, Inc. reasonably believes to be an abused or maltreated child to government authorities authorized to receive reports of child abuse and neglect.
  - b. **Learn of Abuse from Parent or Guardian:** Equinox, Inc. may disclose Protected Health Information about a minor if a parent, guardian or person legally responsible for a minor reveals facts that indicate that the minor has been abused or maltreated to government authorities authorized to received reports of child abuse and neglect.
  - c. **Mandatory Reporting:** Equinox, Inc. personnel engaged in the care and treatment of a minor, and mandated reporters<sup>1</sup> are required to make a report of suspected child abuse pursuant to New York’s Social Services Law § 413; *45 C.F.R. § 164.512(b)(1)(ii)*.  
  
*Tip: New York law defines a minor as a person who has not reached the age of 18, is unmarried and is not the parent of a child. Social Services Law § 414; 45 C.F.R. § 164.512(b)(1)(ii).*
  
2. **Abuse, Neglect or Domestic Violence (where victim is not a minor):** Equinox, Inc. may disclose Protected Health Information about a person (other than a minor) whom Equinox, Inc. reasonably believes to be a victim of abuse, neglect or maltreatment as follows: *45 C.F.R. § 164.512(c)(1)(iii)*.
  - a. **Mandatory Reporting:** Equinox, Inc. may disclose Protected Health Information about a patient whom Equinox, Inc. reasonably believes to be a victim of abuse, neglect or domestic violence to the extent the disclosure is required by law. In New York, the only

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<sup>1</sup> This mandatory reporting obligation is only imposed upon the following health care workers: physicians, medical examiners, physician’s associates, specialist’s assistants, osteopaths, chiropractors, physical therapists, occupational therapists, registered professional nurses, licensed practical nurses, dentists, podiatrists, optometrists, pharmacists, psychologists, certified social workers, speech pathologists, audiologists, and any person who is under contract to provide patient care services in a residential health care facility. *N.Y. Social Services Law § 491.*

such mandatory reporting requirement involves the obligation to report suspected abuse of persons receiving care or services in a residential health care facility.

- b. Reporting With the Individual's Permission: Equinox, Inc. may disclose Protected Health Information about a patient whom Equinox, Inc. reasonably believes to be a victim of abuse, neglect or domestic violence with the patient's permission. The patient's permission may be oral and does not need to be in the form of a written Authorization; however, Equinox, Inc. shall obtain the patient's permission in front of at least two witnesses and those witnesses shall record statements in the patient's medical record that they witnessed the patient giving permission for the disclosure.
  
- c. Authorized Reporting: Other than the cases described above in paragraphs a. and b., Equinox, Inc. may disclose Protected Health Information about a patient whom Equinox, Inc. reasonably believes to be a victim of abuse, neglect or domestic violence if such disclosure is expressly *authorized* by a law or regulation. In New York, the only *authorized* reporting of abuse (as opposed to *required* reporting) involves suspected abuse of persons receiving care or services in a residential health care facility. Anyone other than the mandatory reporters above, may (but are not required to) report suspected abuse of persons receiving care or services in a residential health care facility. However, one of the following two conditions must be met:
  - i. Equinox, Inc. must document that, in the exercise of professional judgment, the report is necessary to prevent serious harm to the patient or other potential victims; or
  - ii. If the individual is unable to give permission for the report, a law enforcement official may complete Attachment 1 form entitled "Certification of Need for Information About Abuse for Immediate Law Enforcement Activity."

*N.Y. Public Health Law § 2803-d(2).*

- 3. Notify the Individual: If Equinox, Inc. discloses Protected Health Information about a patient (*other than a minor*) whom Equinox, Inc. reasonably believes to be a victim of abuse, neglect or maltreatment, Equinox, Inc. must promptly inform the patient that such information has been disclosed, unless:
  - a. In the exercise of professional judgment, Equinox, Inc. believes that informing the individual would place the individual at risk of serious harm; or
  - b. Equinox, Inc. would be informing a patient's personal representative (*See* Equinox, Inc.'s Policy No. 8 entitled "Personal Representatives") and Equinox, Inc. reasonably believes that the personal representative is responsible for the abuse, neglect, or other injury and that informing the personal representative would not be in the patient's best interests.
  
- 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 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).*

5. Log of Disclosures: Equinox, Inc. is required to log disclosures to report suspected abuse 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); 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

**Certification of Need for Information About Abuse for Immediate Law Enforcement Activity**

*(To be completed by an appropriate law enforcement official)*

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

I hereby certify that this agency is conducting an immediate law enforcement activity that depends upon the disclosure of the above-named patient's Protected Health Information. The patient is currently incapacitated, and our law enforcement activity would be materially and adversely affected by waiting until the above-named patient is able to agree to the disclosure. I further certify that this agency does not intend to use the requested information against the above-named patient.

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

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

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

Agency: \_\_\_\_\_

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

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