

**HIPAA Privacy Policy #26**  
**Uses and Disclosures of Protected Health Information**  
**Without Patient Authorization**  
**for Research**

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.502; 164.512; 164.514; 164.528; 164.530; 164.532
Authorized by: Equinox Board of Directors	Version #:

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

**Procedures:**

1. Disclosures for Preparing Research Protocols: Equinox, Inc. may use and disclose Protected Health Information without a patient’s written Authorization for purposes related to preparing for research if:
  - a. Equinox, Inc. has obtained the patient’s Consent to permit disclosure to researchers for the purpose of preparing research protocols or similar purposes, *45 C.F.R. § 164.512(i)*, and
  - b. The researcher completes Attachment 1 form entitled “Attestation of Researcher.” *45 C.F.R. § 164.512(i)(3)(ii)*.
  
2. Disclosures for Performing Research:
  - a. Institutional Review Board or Privacy Board Waiver: Equinox, Inc. may use and disclose Protected Health Information without a patient’s written Authorization for research purposes if:
    - i. Equinox, Inc. has obtained the patient’s Consent to permit disclosure to researchers for the purpose of research; and
    - ii. Equinox, Inc. must obtain valid documentation that an Institutional Review Board has approved a waiver or alteration of the patient’s Authorization for purposes of the research. The Privacy Officer must ensure that such documentation complies with the requirements of *45 C.F.R. § 164.512(i)(2)*.
  
  - b. Limited Data Set: Equinox, Inc. may disclose Protected Health Information in a *limited data set* without a patient’s written Authorization for research purposes if Equinox, Inc. enters into a *data use agreement* with the researcher. *45 C.F.R. § 164.514(e)(1)*. See Policy No. 38 for additional information regarding creation of limited data sets.

- i. Definition of Limited Data Set: A limited data set is Protected Health Information that excludes the following identifiers of the patient, or of relatives, employers, or household members of the patient: Names, address (except town, city, state and zip), telephone numbers, fax numbers, e-mail addresses, social security numbers, medical record numbers, health plan beneficiary numbers, account numbers, certificate/license numbers, vehicle identifiers (such as license plate number), device identifiers and serial numbers, web universal resource locators, Internet protocol addresses, biometric identifiers (such as voice and finger prints), and full face photos and similar images.
  - ii. Definition of Data Use Agreement: A data use agreement is an agreement in which a researcher agrees to use and disclose a limited data set for limited purposes. The Privacy Officer must ensure that all data use agreements comply with the requirements of *45 C.F.R. § 164.514(e)(4)*.
3. Fees: Equinox, Inc. may not charge researcher a fee for research disclosures in excess of the reasonable cost to prepare and transmit the Protected Health Information. *45 C.F.R. § 164.502(a)(ii)(B)(2)(ii)*.
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 made pursuant to this Policy 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

**Attestation of Researcher**

*(To be completed by the researcher who is applying for access to Protected Health Information)*

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

I hereby attest that the following statements are true and complete:

1. I am requesting access to the above-named patient's Protected Health Information solely to review such information as necessary to prepare a research protocol or for similar purposes preparatory to research;
2. I will not remove any Protected Health Information from the premises of \_\_\_\_\_;  
and
3. The above-named patient's Protected Health Information is necessary for the research purposes.

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

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

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

Employer or Agency: \_\_\_\_\_

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

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

Research Project or Purpose: \_\_\_\_\_