

HIPAA Privacy Policy #41
Violations of Policies and Procedures
(Sanctions and Mitigation)

Effective Date: January 22, 2020	Refer to Privacy Rule Sections: 164.308; 164.316; 164.502; 164.512; 164.530
Authorized by: Equinox Board of Directors	Version #:

Policy: Equinox, Inc. shall respond to violations of Equinox, Inc.’s Privacy and Security Policies and Procedures by members of Equinox, Inc.’s Workforce or a Business Associate according to the Procedures listed below.

Procedures:

1. **Sanctions:** Except as otherwise provided in this Policy, if a member of Equinox, Inc.’s Workforce or Business Associate fails to comply with Equinox, Inc.’s Policies and Procedures, Equinox, Inc. must impose appropriate sanctions against the employee. *45 C.F.R. § 164.530(e)*.
 - a. **Type of Sanctions:** Equinox, Inc. shall impose sanctions that are appropriate to address the nature and scope of violations of Equinox, Inc.’s Privacy and Security Policies and Procedures. Depending upon the seriousness of a particular violation, Equinox, Inc. shall impose an appropriate sanction. Examples of categories of sanctions follow:
 - i. Oral Reprimand;
 - ii. Written Reprimand;
 - iii. Letter of Reprimand;
 - iv. Mandatory Training;
 - v. Probationary Period of Employment;
 - vi. Suspension of Employment;
 - vii. Termination of Employment. *45 C.F.R. §§ 164.530(e), 164.308(a)(1)(ii)(C)*; and
 - viii. Termination of access to Equinox, Inc.’s systems and records by Business Associate’s employees or agent.
 - b. **Ensure Consistency with Contracts:** Equinox, Inc. will not impose any sanction that violates the terms of a Workforce member’s contract of employment, a Business Associate agreement or other relevant agreement to which Equinox, Inc. is bound. *45 C.F.R. § 164.308(b)(3)*.

- c. Improper Sanctions: Equinox, Inc. may not impose sanctions against Workforce members under the following circumstances:
- i. Whistleblowers: Equinox, Inc. may not impose sanctions against a Workforce member for disclosing Protected Health Information to an attorney retained by the Workforce member, to a public authority or to an accreditation agency under circumstances where the Workforce member believes in good faith that Equinox, Inc. has broken the law, violated a professional standard or endangered a patient or others. *45 C.F.R. § 164.502(j)(i)*.
 - ii. Communication with Government Regarding Violations of HIPAA: Equinox, Inc. may not impose sanctions against a Workforce member for filing a complaint with the Secretary of the Department of Health and Human Services regarding a violation of HIPAA or for testifying, assisting or participating in an investigation, compliance review, proceeding or hearing. *45 C.F.R. § 164.530(g)(1)*.
 - iii. Victims of a Crime: Equinox, Inc. may not impose sanctions against a Workforce member for disclosing the following information to a law enforcement official regarding an individual who is suspected of having committed a crime against the Workforce member:
 - (A) name and address;
 - (B) date and place of birth;
 - (C) social security number;
 - (D) blood type;
 - (E) type of injury;
 - (F) date and time of treatment;
 - (G) date and time of death, if applicable; and
 - (H) description of distinguishing physical characteristics. *45 C.F.R. § 164.512(f)(2)(i)*.
 - iv. Opposition to an Act that Violates HIPAA: Equinox, Inc. may not impose sanctions against a member of the Workforce for opposing any act, which the member of the Workforce believes in good faith violates HIPAA, as long as the manner of opposition is reasonable and does not itself disclose Protected Health Information in violation of HIPAA. For example, a member of the Workforce may not be punished for refusing to perform an act that he or she believes would violate HIPAA. *45 C.F.R. §§ 160.316(c), 164.530(g)(1)*.
2. Mitigation: If Equinox, Inc. becomes aware that a member of the Workforce or a Business Associate of Equinox, Inc. has violated Equinox, Inc.'s Privacy and Security Policies and Procedures or HIPAA, Equinox, Inc. must take reasonable steps to mitigate any harmful effect of the violation that is known to Equinox, Inc.. For example, if Equinox, Inc. discovers that a member of the Workforce has improperly disclosed a patient's Protected Health Information to a person or

entity that might cause harm to the patient, Equinox, Inc. should notify the patient to apprise him or her about the potential danger. As another example, if Protected Health Information is inadvertently disclosed to an improper recipient, Equinox, Inc. should ask the recipient to return or destroy the Protected Health Information. *45 C.F.R. § 164.530(f)*. See Equinox, Inc.’s Policy No. 39 entitled, “Breach Notification.”

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