

<b>Topic:</b> Privacy of Mental Hygiene Information	<b>Department:</b> Entire Agency
<b>Original effective date:</b> 4/1/03	<b>Last revision date:</b> 12/20/23
<b>Owner:</b> VP for Quality and Compliance	<b>Frequency of reviews:</b> Annual
<b>Internal/Regulatory Reference(s) (all that apply):</b>	
<b>Related documents/Links:</b>	

**Policy:** It is the policy of The Arc of Monroe (“The Arc”) to ensure that people have opportunities for privacy and that business, administrative and support functions promote personal and organizational outcomes.

**Additional Information:** For the purposes of this procedure, “staff” includes employees, contractors, consultants, interns, students and volunteers.

“Protected health information or PHI” is defined as information about people we support that relates to their past, present or future mental or physical health and also identifies them in some way. In addition to more obvious things such as treatment plans, service documentation, clinical assessment, etc., the following are also considered PHI:

- Initials of someone we support. If you share initials, you are sharing PHI. Reducing a name to initials does not protect it under HIPAA law.
- Pictures of someone we support. This includes any photograph that will identify the person in some way. This may be the case even if their face isn’t visible, but something distinctive about them is. It could also apply to pictures of the back of their head, side shots, other parts of their bodies that are distinctive, etc.
- Anything that describes someone in a way that makes it clear who you are talking about (such as a full physical description; or a combination of characteristics that are so unique as to effectively name the person). EXAMPLE: A short middle-aged woman with blazing red hair and right-side hemiparesis who goes to Henrietta Day Services.

This definition applies whether the information is written, spoken, signed, or in an electronic format – regardless of the language (e.g., English or any other language). You should presume that any information about people we support that you work with in your job is PHI and should be treated as such.

<b>Procedure</b>	
<b>Task:</b>	<b>Responsible party:</b>
<b>Sharing PHI with Mental Hygiene Legal Services (MHLS):</b>	
1. Under HIPAA law, The Arc can only share PHI with MHLS without permission from the person if: *MHLS has the power to make decisions about health care for the person; OR * When required to by court order, law or statute; OR *The information has to do with an allegation of abuse for someone who lives in a certified residential setting, such as an IRA, CR or family care home. Please see 14 NYCRR 624.5(k) for more information	Staff

2. If none of these apply, we would need permission from the person or their personal representative to share PHI with MHLS. This would be done through a signed authorization. Please cross reference that policy.	Staff
3. If staff ever have questions about whether something should or should not be shared with MHLS – and if so, whether an authorization is needed, they should consult with their manager or the VP for Quality and Compliance	Staff
<b>Sharing mental hygiene PHI with lawyers in order to admit someone to the hospital against their will:</b>	
1. Under HIPAA, PHI cannot be shared with a lawyer if someone is going to be admitted to a hospital against their will unless: *The lawyer is representing the person and has the power to make decisions about their health care; OR *The Arc has written permission from the person or their representative; OR *A court has told us we have to	Staff
2. If staff ever have questions about whether something should or should not be shared with a lawyer in order to admit someone to the hospital against their will, they should consult with their manager or the VP for Quality and Compliance	Staff
<b>Manager responsibilities:</b>	
1. Managers are responsible for acting as role models for other staff in regards to keeping PHI as secure as possible.	Managers
2. Managers should have a solid understanding of what information can be shared with MHLS or legal counsel for the purposes of involuntary psychiatric admission if/when appropriate, as outlined in this policy.	Managers
<b>VP for Quality and Compliance:</b>	
1. Acts as the agency’s Privacy Officer	VP for Quality and Compliance
2. Responsible for administering the agency’s HIPAA privacy policies and procedures	VP for Quality and Compliance
3. Acts as a resource for staff in regards to proper implementation of the HIPAA privacy rule	VP for Quality and Compliance

**Document revision record:**

Revision Date	Release Date	Reason for change	Approver
9/12/08	9/12/08	Reasons for change not documented	P Dancer
10/21/11	10/21/11	Reasons for change not documented	P Dancer
7/25/17	7/25/17	Reasons for change not documented	P Dancer
11/20/18	11/20/18	Reasons for change not documented	P Dancer
1/26/21	1/26/21	Transitioned to new procedural format and clarified some aspects	P Dancer
12/20/23	12/20/23	Clarified bullet 2 under MHLS number 1	ICC