

<b>Topic:</b> Use and Disclosure of PHI for Marketing Activities	<b>Department:</b> Entire Agency
<b>Original effective date:</b> 4/1/03	<b>Last revision date:</b> 3/18/24
<b>Owner:</b> VP for Quality and Compliance	<b>Frequency of reviews:</b> Annual
<b>Internal/Regulatory Reference(s) (all that apply):</b> 164.508(a)(3)	
<b>Related documents/Links:</b> NA	

**Policy:** It is the policy of The Arc of Monroe 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 policy, “marketing” means to make a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.

“Marketing” does NOT include the following:

- Treatment of people we support, or directing or recommending alternative treatments, therapies, health care providers, or settings of care to the person;
- To describe a health-related product or service that is provided by The Arc; OR
- For case management or care coordination, contacting people supported with information about treatment alternatives and related functions to the extent that they do not fall within the definition of treatment

The Arc does not need an authorization to engage in marketing via:

- A face-to-face communication made by The Arc to a person we support; OR
- A promotional gift of nominal value, such as a pen, water bottle, or mug.

The Arc does need an authorization for other types of marketing, such as:

- A mass mailing where we talk about another company’s services
- Selling people’s names and information (their PHI) to other companies so that they can use it for their own marketing.

“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.

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

<b>Procedure</b>	
<b>Task:</b>	<b>Responsible party:</b>
<b>General Guidelines</b>	
1. Marketing is the responsibility of the Arc of Monroe’s Marketing and Communication Team (“Marketing”). Staff should not engage in any marketing activities without permission from a manager or Marketing and Communications.	Staff
2. Marketing and Communications staff need to have a solid understanding of the requirements of this policy.	Marketing and Communications staff
<b>Manager responsibilities:</b>	
1. Managers have a responsibility to ensure that marketing activities driven and led by Marketing and Communications.	Managers
2. Managers should defer any questions they have about Marketing and HIPAA to the Senior Director for Marketing and Communications or the VP for Quality and Compliance	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:**

<b>Revision Date</b>	<b>Release Date</b>	<b>Reason for change</b>	<b>Approver</b>
9/15/08	9/15/08	Reasons for change not documented	P Dancer
12/27/18	12/27/18	Reasons for change not documented	P Dancer
1/28/21	1/28/21	Transitioned to new procedural format	P Dancer
3/18/24	3/18/24	Revised references to Foundation to refer to Marketing and Communication	ICC