

<b>Topic:</b> Non-compliance detection and response, and confidential communications	<b>Department:</b> Entire agency
<b>Original effective date:</b> 3/11/02	<b>Last revision date:</b> 9/25/24
<b>Owner:</b> VP for Quality and Compliance	<b>Frequency of reviews:</b> Annual
<b>Internal/Regulatory Reference(s) (all that apply):</b> Federal Sentencing Guidelines Chapter 8B2.1(5)(c); 18 NYCRR 531.3(c)(4) & (8); NYS Social Services Law 363-d(2)(d)	
<b>Related documents/Links:</b> Please see references within the document	

**Policy:** It is the policy of The Arc of Monroe (“The Arc”) that business, administrative and support functions promote personal and organizational outcomes.

**Additional Information:** This policy applies to all persons who are affected by the agency’s risk areas (to the degree that they are so affected) including our employees, the CEO and other senior management, managers, contractors, agents, subcontractors, independent contractors, students, interns, volunteers, vendors consistent with the “Vendor Management Policy,” and the Board of Directors; hereafter referred to as “affected parties.”

We encourage a culture where people feel safe to report concerns and ask questions. Making sure people know how to report concerns is crucial for this to happen. We can’t fix a problem if we don’t know about it. We can respond quickly and efficiently the sooner we know about things. We also want people to feel comfortable to ask any questions about compliance that they may have, as a means of increasing their individual understanding as well as organizational knowledge.

“Good faith” means that the person reporting the concern believes it to be true and accurate, to the best of their knowledge.

The Arc is committed to ensuring that there are effective lines of communication open between the VP for Quality and Compliance (as the Compliance Officer), the Internal Compliance Committee (ICC), our staff (including members of management and leadership), the Board of Directors, Board committees, any first tier, downstream or related entities (where/if applicable), and all affected parties.

The types of concerns we would ask you to report include, but are not limited to:

- Anything illegal happening in the agency
- Any false documentation
- Anything believed to be fraud
- Any instances of intimidation or retaliation
- Unethical behavior
- Any potential conflicts of interest

Concerns can be shared confidentially. This means that the person they tell knows who they are but does not share that with others. The confidentiality of any person reporting compliance issues shall be maintained (regardless as to whether or not the person explicitly asks for the report to remain confidential) unless the matter is subject to a disciplinary proceeding, referred to, or under investigation

by the NYS Medicaid Fraud Control Unit (MFCU), the NYS Office of Medicaid Inspector General (OMIG) or law enforcement, or disclosure is required during a legal proceeding. In these circumstances, such persons shall be protected under our policy for non-intimidation and non-retaliation (specifically, our “Whistleblower, Non-intimidation and Non-retaliation Policy”). Please note that in some circumstances, coworkers might be able to determine on their own who made the report. In some instances, a court may require that we disclose who reported the concern. We will do everything we can to keep the name of the reporter confidential, understanding that this may not always be possible.

Concerns can also be reported anonymously. This means that no one knows who is making the report. Confidential and anonymous reports are best made through the compliance hotline. Please see the following procedure for details.

Best practice is for affected parties to report concerns to their supervisor or their primary agency contact (if an outside party). If the person doesn’t feel comfortable doing so, they can report their concerns to any of the parties listed in this procedure, or anonymously or confidentially via our secure compliance hotline. This is available to any and all parties. Affected parties are also always permitted to report concerns to any governmental entity.

<b>Procedure</b>	
<b>Task:</b>	<b>Responsible party:</b>
<b>General Guidelines:</b>	
1. All affected parties are expected to act in accordance with standards of conduct and agency policy. They must refuse to participate in unethical or illegal conduct and are required to report such conduct if suspected or witnessed consistent with this policy.	Affected parties
2. Affected parties are required to report if they think someone is breaking the law or agency policy; not following state or federal regulations; or violating HIPAA law and/or any privacy-related policies and procedures. Affected parties should report to one of the following: *Manager *Director *Senior Director *Vice President Residential and Day Services *Vice President for Community and Employment Services *Vice President for Quality and Compliance: 672-2234 or 451-5586 *Any agency Officer (e.g., CEO, COO, CHRO, CFO) *Their Quality or Operations Coordinator *QI Manager *AOD2 after hours: 585-953-4479  Affected parties can also contact our anonymous and confidential compliance hotline: online at <a href="https://ethcomp.com/arcofmonroe">https://ethcomp.com/arcofmonroe</a> or by	Affected parties

<p>calling 585-448-3588. This is a separate company from The Arc and no one at The Arc is able to see who made the report.</p>	
<p>3. If affected parties use the hotline, they will be given a case number. They can keep track of updates to the case by logging back in with the case number. The case number does not identify them in any way to The Arc of Monroe.</p>	<p>Ethcomp.com, Affected parties</p>
<p>4. In addition to the hotline, affected parties can report a concern in writing (hand written or typed), a phone call, an email using Arc’s email system, or face-to-face.</p>	<p>Affected parties</p>
<p>5. The best way to make an anonymous report is to either use the hotline as described above; or to type up your concerns, leave it unsigned, and send it to the person they wish to report the concern to in a typed envelope.</p>	<p>Affected parties</p>
<p>6. Concerns regarding fraud, waste or abuse of Medicaid or other governmental funds may also be reported to any of the following governmental agencies or entities including, but not limited to: NYS Office of the Medicaid Inspector General (OMIG), NYS Attorney General (AG), NYS Medicaid Fraud Control Unit (MFCU), NYS Department of Health (DOH), Office for People with Developmental Disabilities (OPWDD), Department of Labor (DOL), Office of the Inspector General (OIG), or the US Attorney’s office</p>	<p>Affected parties</p>
<p>7. Affected parties should never use the following to report a concern:          *Their own personal email account          *Texts          *Social media</p> <p>The reasons behind this is that reports often contain PHI or confidential information about the agency or other affected parties. Personal email accounts, texts and social media are not secure and could allow for this sensitive information to be accessed by people with no right to it. If PHI were to be improperly posted, shared or access, it could result in a HIPAA violation for the affected party or the agency.</p>	<p>Affected parties</p>
<p>8. Affected parties cannot be intimidated or retaliated against for any of the following:          *Reporting something they believe is really happening to any appropriate parties or officials          *Investigating issues          *Conducting self-evaluations, audits or remedial actions</p> <p>Examples of intimidation or retaliation include but are not limited to:          *Firing          *Demoting          *Suspending          *Threatening          *Harassing          *Discriminating against them          *Changing their schedule, working conditions or other aspects of their job</p>	<p>Any agency employee including coworkers, management and administration</p>

<p>Please cross reference the policy, “Whistleblower, Non-intimidation and Non-retaliation” for additional information</p>	
<p>9. If it’s proven that intimidation, retaliation or other action as described above has occurred in response to someone reporting a concern in good faith; conducting an investigation; or conducting self-evaluations, audits or remedial actions, there will be disciplinary actions up to and including termination of employment or separation from the agency. This applies regardless of who is responsible for the intimidation or retaliation, including coworkers, supervisor or any member of management.</p>	<p>HR, Administration</p>
<p>10. If an affected party did something illegal and then reported it, they could receive discipline or have consequences for having done something illegal; however, they would not receive any discipline or have consequences related to reporting the concern.</p>	<p>HR, Administration</p>
<p>11. If an affected person thinks they were treated differently, intimidated or retaliated against for a sharing a concern in good faith; conducting an investigation; or conducting self-evaluations, audits or remedial actions, they should tell one of the following as soon as possible:</p> <ul style="list-style-type: none"> <li>*Their supervisor or agency contact</li> <li>*An HR Business Partner or Manager</li> <li>*Any director</li> <li>*Any senior director</li> <li>*Any vice president</li> <li>*Any agency officer</li> <li>*The VP for Quality and Compliance</li> <li>*The agency’s compliance hotline, as described above</li> </ul>	<p>Affected parties</p>
<p>12. If it’s determined that an affected party reported something that they knew was untrue (a false report), they will receive discipline up to and including termination of employment, or separation from the agency. If done in response to someone reporting a concern in good faith, this would constitute retaliation. Submitting a false report is never acceptable at any time or for any reason.</p>	<p>Affected parties</p>
<p>13. All concerns that are reported will be documented formally and consistently, maintained in a confidential manner, reviewed, investigated, consistent with the situation and its complexity.</p>	<p>VP for Quality and Compliance or designee</p>
<p>14. Affected parties should cross reference the policy, “Management of situations reported to the Compliance Office” for more information.</p>	<p>Affected parties</p>
<p>15. The VP for Quality and Compliance will oversee any compliance investigations consistent with the policy, “Compliance Investigations” (please cross reference for additional information). They will contact legal counsel if and when appropriate. In some cases, they may instruct staff to suspend certain processes or activities until we have determined what’s going on. For example, they may tell a program to not submit any claims for payment until they’re sure that the claims are ready to submit and won’t result in improper payment.</p>	<p>VP for Quality and Compliance or designee</p>
<p>16. When we investigate, if we determine that a concern actually happened or may have happened, we will conduct a risk appetite assessment. This is a way to see whether the situation was within our risk comfort zone or not.</p>	<p>VP for Quality and Compliance</p>

<p>Please cross reference the policy, “Risk Appetite Assessment” for more information.</p>	
<p>17. If we think the concern might constitute a crime, we will call the police and/or consult legal counsel for guidance.</p>	<p>VP for Quality and Compliance</p>
<p>18. In response to investigations, audit tools may be revised and there may be focused follow-up audits or reviews to monitor for implementation of the plans to prevent recurrent (or other follow-up action plans) and ongoing compliance in response to the situation.</p>	<p>Quality/ Operations Coordinators; VP for Quality and Compliance; Management</p>
<p>19. If it’s determined that we received funds we were not entitled to, we will pay the money back within regulatory timeframes (which for Medicaid is 60 days of determining the amount and scope of the overpayment) and will take steps to ensure that it doesn’t happen again. Please cross reference the policy, “Unsupported claims, repayment/financial adjustments and voluntary self-disclosure” for more information.</p>	<p>VP for Quality and Compliance or designee</p>
<p>20. Anything reported that is not compliance-related (such as an HR issue or something that would fall to operations) will be forwarded to those departments. The compliance function is not qualified or authorized to respond to, resolve or address issues that are outside its scope of responsibility.</p>	<p>VP for Quality and Compliance</p>
<p>21. The other department will then be responsible for responding to the concern.</p>	<p>The (other) appropriate department</p>
<p>22. It’s important that everything we do that relates to a reported concern and its related investigation is documented and archived (consistent with our retention policy). This is important for both internal use and reference, as well as in the event we get audited by the government. Some of the government agencies who could audit us include (but are not limited to): *Office for People with Developmental Disabilities (OPWDD) *The NYS Office of Medicaid inspector general (OMIG) *NYS Department of Health (NYS DOH) *NYS Attorney’s general office *Federal Centers for Medicare and Medicaid Services (CMS)</p>	<p>VP for Quality and Compliance or designee</p>
<p><b>Manager Responsibilities:</b></p>	
<p>1. Managers have a responsibility to understand the agency’s documentation standards and that systems, processes and procedures have been established to meet them.</p>	<p>Managers</p>
<p>2. Managers have a responsibility to support, within their programs and the agency as a whole, a culture of openness and safety where staff can raise concerns without perceived fear of retaliation or intimidation.</p>	<p>Managers</p>
<p>3. Managers are obligated to actively respond to reported concerns, including any that allege retaliation or intimidation, seeking support from HR, their leadership or the VP for Quality and Compliance as appropriate.</p>	<p>Managers</p>

4. Managers are required to cooperate with investigations within their programs and to respond to investigative findings as required and requested by the internal compliance committee and/or the VP for Quality and Compliance. They may be asked to assist in ensuring cooperation among the staff on their teams if/when necessary.	Managers
<b>VP for Quality and Compliance:</b>	
1. The VP for Quality and Compliance acts as the agency’s Compliance Officer, as required by NYS law.	VP for Quality and Compliance
2. Has primary responsibility for administering the agency’s compliance program, and related policies and procedures.	VP for Quality and Compliance
3. Acts as a resource for agency staff, managers, and leadership, supporting an environment and culture conducive to staff feeling free to report concerns.	VP for Quality and Compliance
4. Is responsible for managing concerns reported to the Hotline, including responding to them and/or forwarding them as appropriate to other agency departments.	VP for Quality and Compliance
5. Has oversight responsibility for compliance-related investigations and the authority to expand or assume leadership of any such investigations being done.	VP for Quality and Compliance

**Document revision record:**

Revision Date	Release Date	Reason for change	Approver
1/24/05	1/24/05	Reasons for changes not documented	P Dancer
10/27/05	10/27/05	Reasons for changes not documented	P Dancer
12/29/06	12/29/06	Reasons for changes not documented	P Dancer
5/19/08	5/19/08	Reasons for changes not documented	P Dancer
6/25/09	6/25/09	Reasons for changes not documented	P Dancer
8/6/10	8/6/10	Reasons for changes not documented	P Dancer
6/1/11	6/1/11	Reasons for changes not documented	P Dancer
10/17/12	10/17/12	Reasons for changes not documented	P Dancer
5/30/13	5/30/13	Reasons for changes not documented	P Dancer
10/24/14	10/24/14	Reasons for changes not documented	P Dancer
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5/22/17	5/22/17	Reasons for changes not documented	P Dancer
11/9/19	11/9/19	Reasons for changes not documented	P Dancer
8/29/19	8/29/19	Reasons for changes not documented	P Dancer
11/25/19	11/25/19	Transitioned to new procedural format	P Dancer
1/29/21	1/29/21	Added specific statement that this applies to HIPAA as well	P Dancer
3/4/21	7/13/21	Fleshed out some details. Specifically stated that concerns can be reported to any government entity. More clearly referenced intimidation and retaliation. Also added first tier	ICC

		and downstream entities. Added discrete sections for managers and the VPQC.	
6/30/22	6/30/22	Updated guidance on reporting via text, added NYS AG to where concerns can be reported, explained why social media and personal email can't be used to report, corrected pronouns and typos	ICC
3/15/23	3/15/23	Added language specific to exceptions where confidentiality may not be maintained and added a link to cross reference our whistleblower (non-retaliation) policy; specified whom this policy applies to and updated terms throughout	ICC
3/24/23	4/28/23	Cross-referenced the Compliance Investigations policy; updated links to other policies	ICC
7/26/23	7/26/23	Removed texting as a reporting option; removed a duplicate phrase	ICC
11/15/23	11/30/23	Added reference to asking compliance questions; listed examples of the types of things we would want people to report; added a bullet in general procedure regarding the expectation that people follow agency policy, that they cannot participate in illegal or unethical behavior, and must report such.	ICC
12/28/23	1/2/24	Added a phrase clarifying that all reports should be treated as confidential, regardless as to whether or not the person asks for it to be	ICC
6/28/24	7/18/24	Added clarifying language; spelled out acronyms; added cross references to other policies	ICC
9/25/24	9/25/24	Added Board committees as those impacted by this policy	ICC