

Topic: Privacy Rights of Minors	Department: Entire Agency
Original effective date: 4/1/03	Last revision date: 3/18/24
Owner: VP for Quality and Compliance	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply):	
Related documents/Links: 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, a child is emancipated in New York State if they:

- Are over the age of 16;
- Do not live with either parent (living away from home at college does not count if the plan is to return between semesters)
- Does not receive any money from either parent unless the court ordered child support or if the child receives Social Security benefits;
- Has a job as the main source of incomes; AND
- Is not in foster care or under court supervision;

A child is also emancipated if they are in the military or married.

A child can be emancipated if they left the parent’s home without a good reason and refused to obey the reasonable rules of the parent. A child will not be emancipated in this situation if they are under age 16. If a child left the parent’s home for a good reason such as child abuse, the parent may still have to support the child.

In New York State, a child cannot receive an emancipation order from a court. Instead, during another court case, the court can make a determination that the child is emancipated based on the presence of the above criteria.

An emancipated minor must get a parent’s permission for routine health care unless it is:

- An emergency;
- For drug use or mental health treatment; OR
- Related to their pregnancy

A child who is a parent does not need a parent’s permission for health care.

Minors, whether emancipated or not, do not require their parent/guardian permission to obtain certain sexual and reproductive health services, including STD/C or HIV testing and STD/C treatment.

“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.

Procedure	
Task:	Responsible party:
General Guidelines	
1. Staff should be aware if they are providing supports and services to an emancipated minor. This fact should be documented in their medical record.	Staff
2. Staff should seek support and guidance with managing health care consent and the sharing of PHI for emancipated minors from their manager of the VP for Quality and Compliance.	Staff
3. If a person is not an emancipated minor, their legal guardian has the authority to make health care decisions except as noted above.	Staff
Manager responsibilities:	
1. Managers have a responsibility to ensure that the privacy rights of minors are managed within these requirements	Managers
2. Managers should defer any questions they have about this topic the VP for Quality and Compliance	Managers
VP for Quality and Compliance:	
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
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Document revision record:

Revision Date	Release Date	Reason for change	Approver
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	Reworded part of the criteria for emancipated minor for clarity; corrected typo	ICC