

Topic: Authorizations for use and disclosure	Department: Entire agency
Original effective date: 1/29/21	Last revision date: 9/26/24
Owner: VP for Quality and Compliance	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply): 164.508(b)	
Related documents/Links: Individual authorization form; HIPAA Authorization for Use/Disclosure of Information for Publication, Videos and Photos	

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: An authorization is a signed statement from the person or their legal representative granting The Arc permission to use or disclose PHI in a specific way for a specific purpose. HIPAA law dictates what must be included in an authorization for it to be compliant and legal.

In many cases, The Arc is required to obtain such an authorization before we can use or disclose PHI. An authorization is NOT required for the following:

- Treatment, payment or health care operations (please cross reference the policy, [“Treatment, Payment and Healthcare Operations, and Data Use Agreements”](#) for more information)
- Disclosing PHI to other health care providers who also serve the person
 - Example: Someone we support falls and hurts their leg. We may share their medical information with the hospital so that they can treat the person correctly; or someone we support also sees a primary care physician in the community. We can share PHI with this physician in order to ensure continuity of care.
- Disclosing PHI to a family member, other relative, or close personal friend of the person, consistent with our policy on [“Uses and Disclosures of PHI – Special Circumstances”](#) – please cross reference that policy
- For some marketing and fundraising activities (please cross reference the following policies for more detail: [Fundraising Activities](#), and [Use and Disclosure of PHI for Marketing Activities](#))
- To law enforcement and other legal bodies under specific circumstances (please cross reference the policy [“Uses and Disclosures of PHI – Special Circumstances”](#))

Please remember that minimum necessary always applies whether an authorization is required or not. Please cross-reference the policy, [“Staff Confidentiality of PHI and Minimum Necessary”](#) for additional information.

For all other uses and disclosures, you should presume an authorization is needed. Please cross reference other HIPAA policies for more details or contact the VP for Quality and Compliance for guidance.

PLEASE NOTE: It is NEVER permitted to ask or require a person or their legal representative to sign a blank or partially-completed authorization. Before an authorization can presented to a person for their signature, all sections must be filled in. Similarly, the people we support or their legal representatives can refuse to sign any authorization for any reason. They do not need to share that reason with us.

If, per agency policy and HIPAA requirements, an authorization is required, the PHI in question cannot be used or disclosed until a valid and complete authorization has been signed and received by The Arc. Primary responsibility for implementing an authorization lies with management. The VP for Quality and Compliance is available to assist as necessary.

The Arc has a standard authorization form that must be used (see attached, “Individual Authorization Form”). We have also implemented a standard agency release for publication, videos and photos (“media release”) (see attached, “HIPAA Authorization for Use/Disclosure of Information for Publication, Videos and Photos”). This latter form is used primarily by The Arc Foundation of Monroe for the purposes of sharing the work we do with others in the community. People supported can modify this authorization form in whole or in part before signing it.

Please note that our Health Homes program may use alternate authorizations as required by our contract with GRHHN. These provide enhanced protections for the person and are considered HIPAA-compliant.

“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. Managers should ask those they support (or their legal representative) if they would be willing to sign the agency’s media release. The person we support/legal representative is not obligated to agree to these disclosures and they cannot be pressured to do so. Their continued receipt of services and supports by The Arc is in no way contingent on them agreeing to these disclosures. While not required, it is recommended that these be presented to people we support annually at the primary Life Plan review to ensure they continue to agree with their prior decision.	Managers
2. If the person supported/their legal representative agrees to the conditions on the media release form, the manager will check	Manager

<p>“Approved” on the form. If the person does not agree, the manager will check “Not Approved” on the form. This determination remains in effect until the person requests a change to the authorization.</p> <p>Managers should make a copy of the form, which they should send to the Senior Director of Marketing and Communication. They should keep the original, hand-signed copy in their records.</p>	
<p>3. For more intermittent situations, if staff are unsure whether an authorization is needed before PHI can be used or disclosed, they should notify their manager.</p>	<p>Staff</p>
<p>4. The manager will review the situation, related policies and procedures, and make a determination as to whether they believe that an authorization is needed. If necessary, they will consult with the VP for Quality and Compliance to ensure that their decision falls within HIPAA requirements.</p>	<p>Manager</p>
<p>5. If an authorization is required and the VP for Quality and Compliance has been made aware of the situation, they will offer to draft the authorization to ensure that it is compliant with HIPAA requirements.</p>	<p>VP for Quality and Compliance</p>
<p>6. Managers (or designees) should present the proposed authorization to the person or their legal representative. Both the standard form and the media release indicate the person’s rights regarding the authorization, namely that:</p> <ul style="list-style-type: none"> *The person can refuse to sign the authorization and if they do so, their services cannot and will not be affected *The person can revoke the authorization at any time by doing so in writing and sending it to the VP for Quality and Compliance; but that doing so will not affect any disclosures already made *The PHI referenced in the authorization may be re-disclosed by others who receive it if they are not bound by state or federal laws to protect it; and that The Arc is not responsible for such re-disclosure *The form was (and must be) filled out fully before the person can sign it (as referenced above) *They have reviewed and understand the information on the form and the intent behind it. 	<p>Managers or designees</p>
<p>7. Once signed, it is recommended that the originally-signed hard copy signed authorization be maintained by the program in the event that the validity of a scanned version is called into question and the original, hand-signed version is required. Authorizations should be scanned into the Electronic Health Record so that it is available to all programs and departments supporting the person. This applies to both the standard individual authorization and the media release.</p>	<p>Managers</p>
<p>8. If staff are made aware that a person or their legal representative would like to revoke an authorization currently in effect, staff should notify their manager.</p>	<p>Staff</p>
<p>9. The manager should inform the person that they need to put their revocation request in writing to be submitted to the VP for Quality and Compliance. The manager will facilitate getting the revocation request to the VP for Quality and Compliance.</p>	<p>Manager</p>
<p>10. The VP for Quality and Compliance will review the revocation request and communicate clearly with affected programs the impact of the</p>	<p>VP for Quality and Compliance</p>

<p>revocation request. Members of senior leadership will be copied in on such communication as appropriate to ensure enhanced awareness. A copy of the revocation request will be sent to affected programs/departments (managers) with instructions to attach it to their copy of the authorization now being revoked.</p>	
<p>11. Once a revocation request has been received and processed, affected programs and departments are no longer authorized to use or disclose the PHI initially allowed by the authorization. Managers are responsible for ensuring that this is communicated as necessary to other agency staff.</p>	Managers
<p>Manager responsibilities:</p>	
<p>1. Managers are responsible for acting as role models for other staff in regards to only using or sharing PHI consistent with HIPAA law, and ensuring that authorizations are enacted when necessary.</p>	Managers
<p>2. Managers should have a solid understanding of this procedure and their roles and responsibilities in it.</p>	Managers
<p>3. Managers should seek support and guidance if necessary from the VP for Quality and Compliance in interpreting and applying this requirement.</p>	Managers
<p>VP for Quality and Compliance:</p>	
<p>1. Acts as the agency's Privacy Officer</p>	VP for Quality and Compliance
<p>2. Responsible for administering the agency's HIPAA privacy policies and procedures.</p>	VP for Quality and Compliance
<p>3. Acts as a resource for staff in regards to proper implementation of the HIPAA privacy rule.</p>	VP for Quality and Compliance
<p>4. Will draft authorizations based for programs or departments based on the desired use and disclosure.</p>	VP for Quality and Compliance

Document revision record:

Revision Date	Release Date	Reason for change	Approver
9/29/21	10/8/21	Eliminated redundant language	ICC
10/7/22	10/13/22	Specifically stated that minimum necessary always applies; listed out attached/cross-reference documents; clarified hand-signed vs. scanned authorizations	ICC
10/30/23	10/30/23	Specified title of person in Marketing and Communications to receive Media Releases; added hyperlinks to other policies; added statement that people we support/legal reps can decline to sign any authorization for any reason; added clarifying language in general guidelines step 1	ICC
9/26/24	9/26/24	Reformatted parts of the policy and added clarifying language	ICC