

Topic: Amendment of Protected Health Information	Department: Entire Agency
Original effective date: 4/01/03	Last revision date: 1/25/24
Owner: VP for Quality and Compliance	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply): 164.526; NYS MHL 33.16(g)	
Related documents/Links: Request for amendment to PHI form	

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:

Any person we support or their legal representative (“person” or “people we support”) has a right to request that The Arc amend Protected Health Information (PHI) that we maintain about them as part of the designated record set (please cross reference that policy). We may or may not agree to make the amendment, based on the specifics of the request.

“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. The VP for Quality and Compliance has primary responsibility for responding to requests for amendment.

Denial of amendment:

The Arc is permitted to deny the request to amend PHI for the following reasons:

- The PHI was not created by us. If the person is able to demonstrate that the originator of the PHI is no longer able to amend it themselves, we may be required to make the amendments. An example of this would be that the provider who created the PHI is no longer in business.

- The PHI they are asking to be amended is not part of the designated record set (please cross reference the “Designated Record Set” policy).
- The PHI would not be available for access or inspection (please cross reference the policy on “Access to PHI”); OR
- The Arc believes that the PHI is accurate as it stands.

Procedure	
Task:	Responsible party:
1. People we support have the right to request an amendment to PHI about them that is contained within the designated record set (please cross reference the “Designated Record Set” policy). They must make such a request in writing using the attached form.	People we support
2. If any staff member receives such a request, they must forward it to their manager immediately.	Staff
3. The manager needs to notify the VP for Quality and Compliance immediately.	Manager
4. After reviewing the request, VP for Quality and Compliance (or designee) may reach out to the person to clarify exactly what PHI they feel is inaccurate and needs amendment.	VP for Quality and Compliance or designee
5. The Arc must act on such a request as soon as possible after the request was received, but no later than 60 days. If we are unable to act on the request within this period, we can implement a one-time extension for an additional 30 days. If we do so, we must notify the person of the delay, the reasons for the delay, and the date by which we will have completed our review of the request.	Senior Director, VP for Quality and Compliance
6. If we are notified by another provider of an amendment to the PHI of someone we both support, we are required to amend our PHI consistent with that request.	VP for Quality and Compliance, Managers
7. The Arc must maintain copies of all documentation related to the request for amendment, approval or denial, statement of disagreement, and agency rebuttal (or related summaries) for a period of 6 years from the date when the matter is resolved.	VP for Quality and Compliance
If we are granting the request in whole or in part:	
1. The VP for Quality and Compliance will inform the person that the request has been granted in whole or in part. If granted in part only, the person will be informed as to which parts will be amended and which will not. Please see the next section for denials.	VP for Quality and Compliance
2. The VP for Quality and Compliance will work with the designated program(s) or departments to make the amendments.	VP for Quality and Compliance
3. The VP for Quality and Compliance will find out from the person who else has received this information and obtain their agreement for The Arc to notify these others so that they can be made aware of the amendments. Specifically, this would apply to: *Others identified by the person as having received the PHI that will be amended; AND	VP for Quality and Compliance

*Others that The Arc knows has the PHI that will be amended (such as business associates) and who use or rely on that information.	
If we are denying the request in whole or in part:	
<p>1. If we are denying any part of the request, The Arc must provide a timely, written denial to the person. It must be written in plain language and include:</p> <ul style="list-style-type: none"> *The basis for the denial *That the person has a right to submit a written statement disagreeing with the denial and how the person may file such a statement; *That if the person does not submit a statement of disagreement, they may request that The Arc provide their request for amendment and the denial with any future disclosures of the PHI under question; *A statement about how the person may complain to The Arc's administration or the federal government. This must include the name and contact information of the Arc person: President/CEO: 585-672-2233. *In addition, if the appeal with the President/CEO is denied, the person may seek judicial review of the decision. 	VP for Quality and Compliance
2. If the person chooses to submit a statement of disagreement, it must be in writing and should be limited to 500 words.	Person
3. The Arc may prepare a written rebuttal to the person's statement of disagreement. If we do so, we must provide a copy to the person.	VP for Quality and Compliance
4. The Arc must ensure that any records subject to the request for amendment (whether amended or not) are identified in the designated record set and that we can append the person's request for an amendment, the agency's denial (if applicable), the person's statement of disagreement (if any), and the agency's rebuttal (if any) to the designated record set.	VP for Quality and Compliance, IT
<p>5. For any subsequent disclosures of the PHI subject to the request:</p> <ul style="list-style-type: none"> *If a statement of disagreement has been submitted by the person, The Arc must include copies of the items listed in #4 above; or, at our discretion, a summary of that information. *If a statement of disagreement has NOT been submitted by the person, The Arc must include the person's request for amendment and our denial; or, at our discretion, a summary of that information. 	VP for Quality and Compliance, Managers
Manager responsibilities:	
1. Managers have a responsibility to notify their Senior Director immediately if they receive a request for amendment to any PHI. This includes verbal requests made by people we support.	Managers
2. As indicated in this procedure, managers may share some responsibility for managing PHI subsequent to a request for amendment.	Managers
Senior Director responsibilities:	
1. Senior Directors have a responsibility to notify the VP for Quality and Compliance if/when a request for amendment is received.	Senior Director
2. Senior Directors may be asked to assist with responding to the request for amendment.	Senior Director

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
4. Has primary responsibility for responding to requests for amendment.	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
10/24/11	10/24/11	Reasons for change not documented	P Dancer
11/26/18	11/26/18	Reasons for change not documented	P Dancer
1/28/21	1/28/21	Transitioned to new procedural format and fleshed out responsibilities	P Dancer
1/24/23	1/24/23	Added regulatory reference to NYS MHL 33.16(g); Spelled out linked policies and activated links	ICC
1/25/24	1/25/24	Updated links	ICC

REQUEST FOR AMENDMENT TO PHI FORM

The Arc of Monroe

See reverse side for instructions

Name of person: _____

Address: _____

City, State, Zip: _____

Date of Birth: _____

I am requesting amendment to my Protected Health Information in The Arc of Monroe's Designated Record Set pursuant to HIPAA Right of Amendment regulations, as indicated below.

Specific PHI to be corrected/amended: _____

Please explain how/why you believe the PHI is incorrect or incomplete. Use additional sheets if necessary:

If you agree, The Arc will make a reasonable effort to provide the amendment to other persons whom The Arc knows received the information in the past and may have relied, or are likely to rely, on such information in a manner that may be detrimental to your health care.

☐ I agree to allow The Arc to release any amended information to individuals or entities as described above.

Would you like this amendment send to anyone else who received the information in the past? ☐ Yes ☐ No

If yes, please specify the name and address of the organization(s) or individual(s) below.

Date/Time: _____ Signature: _____

Relationship to the person listed above:

☐ Self

Legal representative of this person (must use the first present on the following list):

- ☐ Court-appointed guardian
- ☐ Actively involved spouse
- ☐ Actively involved parent
- ☐ Actively involved adult child
- ☐ Actively involved adult sibling
- ☐ Actively involved family member

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Date received: _____ Amendment has been: ☐ Accepted ☐ Denied ☐ In whole ☐ In part

If denied, reason for denial:

- ☐ PHI is not part of the person's designated record set
- ☐ Record is not available to the person for inspection under Federal law
- ☐ The Arc did not create the record
- ☐ Record is accurate and complete

Additional comments: _____

Signature of VP for Quality and Compliance

Date

Instructions for completing the Request for Amendment to PHI Form

1. Please print legibly using dark permanent ink.
2. Sign and date the request.
3. Submit the completed and signed form to:
The Arc of Monroe
Attention: VP for Quality and Compliance
2060 Brighton-Henrietta Townline Road
Rochester, NY 14623.
4. You will be notified of the acceptance or denial of your request. This will happen within 60 days of receipt of the request. If necessary, this may be extended an additional 30 days. We will notify you if this extension occurs, including why and by when you can expect our decision.
5. If we accept the request for amendment, we will amend designated records consistent with the request and our agreement to accept.
6. If you agree to allow The Arc to release any amended information and if your request to amend is accepted, we will make reasonable efforts to send any amended or corrected information to anyone whom we know has received this information in the past and who may have relied, or is likely to rely, on such information to your detriment. Similarly, we will make reasonable efforts to send the correction or amendment to those individuals or entities/organizations you identify and who have a need for the correction or amendment.
7. If your request is denied, you may submit a statement of disagreement. This statement should be limited to 500 words and should include the basis for your disagreement. You should send this to:
The Arc of Monroe
Attention: President/CEO
2060 Brighton-Henrietta Townline Road
Rochester, NY 14623
8. If your appeal with the President/CEO is denied, you may seek judicial review of the decision.
9. If you do not submit a statement of disagreement, you may request that The Arc provide this request for amendment (or a summary) and the related denial with any future disclosures that we make. Such a request should be made in writing.
10. The Arc has the right to prepare a written rebuttal to any statement of disagreement. You will be provided a copy of any rebuttal statement. Any rebuttal statement written by The Arc is not subject to correction or amendment.
11. This form, your statement of disagreement (if any), and our rebuttal (if any) will become part of your permanent record.