

Topic: Confidential Communications	Department: Entire Agency
Original effective date: 1/28/21	Last revision date: 1/12/26
Owner: VP for Quality and Compliance	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply): 45 CFR 164.522(b)	
Related documents/Links: NA	

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: The Arc must permit people supported or their legal representatives to make reasonable requests to receive communications containing PHI by alternative means or at alternative locations. An example would be if they prefer to only be contacted at work and not their home. We are required to abide by such reasonable requests. For the purposes of this policy, “Confidential Communications” means any communication by The Arc to people supported that contains PHI. This is different and distinct from “Confidential Communications” as defined and explained in Corporate Compliance policies. Please see the policy, “Non-compliance Detection and Response, and Confidential Communications” for that policy.

“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. If people supported or their legal representatives wish to make requests regarding alternative means or locations for confidential communications,	People supported

they must do so in writing. These should go to the manager of the program or department.	
2. No one from The Arc can require a person we support or their legal representative to provide an explanation as to why they are requesting alternative means or locations for confidential communications.	Staff
3. Once a request for confidential communications has been received and approved, the manager will put steps into place to ensure that the request is consistently met.	Manager
4. If it's believed that the request is unreasonable, the manager will review with their Senior Director and/or the VP for Quality and Compliance. If that's the final determination, the person/their legal representative will be informed of the decision and why.	Manager, Senior Director, VP for Quality and Compliance
Manager responsibilities:	
1. Managers have a responsibility to understand the requirements of this policy and their role in it.	Managers
2. Managers are responsible for responding to and ensuring compliance with alternative requests for confidential communications. They should seek support from the VP for Quality and Compliance as necessary.	Managers
VP for Quality and Compliance:	
1. Acts as the agency's Privacy Officer	VP for Quality/Compliance
2. Responsible for administering the agency's HIPAA privacy policies and procedures.	VP for Quality/Compliance
3. Acts as a resource for staff in regards to proper implementation of the HIPAA privacy rule.	VP for Quality/Compliance

Document revision record:

Revision Date	Release Date	Reason for change	Approver
1/25/24	1/25/24	Clarified the difference between confidential communications defined here vs. as defined in corporate compliance; added guidance on how to respond if the request is seen as unreasonable	ICC
1/12/26	1/12/26	Corrected the regulatory reference; added reference to legal representative; added clarifying language	ICC