

Topic: Business Associates and Business Associate Agreements	Department: Entire Agency
Original effective date: 4/1/03	Last revision date: 2/23/22
Owner: VP for Quality and Compliance	Frequency of reviews: Annual
Internal/Regulatory Reference(s) (all that apply): 160.310; 164.410	
Related documents/Links: Business Associate Agreement	

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 procedure, a “business associate” is someone who, on behalf of The Arc, creates, receives, maintains or transmits PHI for a function or activity that is regulated by HIPAA law. This includes a number of things such as, but not limited to:

- Billing, or claims processing or administration
- Data analysis, processing or administration
- Utilization review
- Quality assurance
- Accounting services

Examples include:

- Health information organizations that provide data transmission services with respect to PHI
- A company we work with that stores and manages PHI for us, such as our electronic health record
- Someone that offers a personal record to one or more people we support on behalf of The Arc
- A subcontractor that creates, receives, maintains or transmits PHI on behalf of a business associate.

Business associates do not include:

- Another health care provider who also provides services to someone we support (such as a doctor that someone sees or someone’s non-Arc residential provider)
- A government agency who is responsible for determining eligibility for, or enrollment in, a government health plan (such as Medicaid or Medicare)

The detailed responsibilities of the Business Associate are contained in the Business Associate Agreement (BAA) (See attached). The VP for Quality and Compliance has primary responsibility to ensure compliance with HIPAA law in regards to business associates and BAAs.

For the purposes of this procedure, “staff” includes employees, contractors, consultants, interns, students and volunteers.

“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.

Procedure	
Task:	Responsible party:
General Guidelines	
1. Whenever The Arc enters into a contract with another company, an assessment will occur as to whether or not a BAA is necessary, based on the criteria above and in HIPAA law. The VP for Quality and Compliance should be consulted if there are any questions as to whether or not one is needed. There may also be instances where a BAA is required when other contracts are not.	Leadership
2. The VP for Quality and Compliance will assist as necessary in making this determination.	VP for Quality and Compliance
3. If the determination is that a BAA is appropriate, the leader will notify VP for Quality and Compliance (if not already informed).	Leadership
4. If the BA provides a BAA for us to sign as the covered entity (this should not happen, but it sometimes does), it should be forwarded to the VP for Quality and Compliance for review prior to signature.	Leadership
5. Once approved or if using our own BAA, the leader will ensure that the BAA is sent out to the appropriate party at the business associate for review and signature.	Leadership
6. If the contractor proposes any changes to the BAA, these requests will be sent to the VP for Quality and Compliance for review. He will contact legal counsel as appropriate for guidance.	Executive Assistant, VP for

	Quality and Compliance
7. Once an agreed-upon BAA has been returned by the contractor, the Executive Assistant will ensure that it is signed by the CFO.	Executive Assistant, CFO
8. Once signed, the Executive Assistant will maintain the original signed copy and will send a copy to the VP for Quality and Compliance. On this copy, the Executive Assistant will document the duration of the contract (dates) if applicable. This can be done by hand at the top of the copy. This will assist the VP for Quality and Compliance in managing existing BAAs. If the BAA is not tied to a specific contractual period, no date needs to be written.	Executive Assistant
9. The VP for Quality and Compliance will periodically review the list of BAAs and remove any for whom the contract period has expired and will not be renewed.	VP for Quality and Compliance
10. The VP for Quality and Compliance reserves the right to enact elements of the BAA to ensure that the business associate is in compliance with HIPAA law, consistent with the terms of the BAA.	VP for Quality and Compliance
11. In the event that the business associate experiences a breach involving Arc of Monroe PHI, the VP for Quality and Compliance will work with the business associate as appropriate and as outlined in the BAA. He may consult with legal counsel as appropriate.	VP for Quality and Compliance
12. If we receive a BAA as a business associate to another covered entity, the BAA should be forwarded to the VP for Quality and Compliance for review before signature.	Leadership; VPQC
13. Once approved, it should go to the CFO for signature.	VPQC; Leadership; CFO
Leadership responsibilities:	
1. Members of leadership are responsible for consulting with the VP for Quality and Compliance if/when there are questions as to whether a BAA is required.	Leadership
2. Members of leadership are responsible for ensuring that BAAs are sent out for review and signature, consistent with this procedure.	Leadership
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 and leadership in regards to proper implementation of the HIPAA privacy rule	VP for Quality and Compliance
4. Has ultimate responsibility for The Arc's compliance with business associate provisions.	VP for Quality and Compliance

Document revision record:

Revision Date	Release Date	Reason for change	Approver
10/24/11	10/24/11	Reasons for change not documented	P Dancer
8/5/15	8/5/15	Reasons for change not documented	P Dancer
12/31/18	12/31/18	Reasons for change not documented	P Dancer
1/29/21	1/29/21	Transfer to the new procedural format and fleshed out	P Dancer
2/23/22	3/4/22	Clarified the BAA implementation process and added a bullet about BAAs with Arc as the BA	ICC