AGENCY POLICY:
PRIVACY OF MENTAL HYGIENE INFORMATION

SCOPE OF POLICY
This policy applies to all employees, trainees, volunteers, consultants, students, contractors and subcontractors at the agency.

STATEMENT OF POLICY
The Arc knows that information about people’s mental health is sensitive. They want to make sure they handle it carefully.

IMPLEMENTATION OF POLICY
A. Sharing mental hygiene PHI with Mental Hygiene Legal Service (MHLS)
Under HIPAA, The Arc can only share PHI with MHLS without permission from the person if:
- MHLS has the power to make decisions about health care for the person; OR
- A court has told us we have to; OR
- The information has to do with an allegation of abuse for someone who lives in an IRA, CR, IRA or Family Care Home. Please see 14 NYCRR 624.5(k) for more information.

If none of these apply, The Arc would need permission from the person or their representative to share PHI with MHLS.

B. Sharing mental hygiene PHI with lawyers for putting someone in the hospital against their will
Under HIPAA, PHI cannot be shared with a lawyer if someone is going to be hospitalized against their will unless:
- The lawyer is representing the person and has the power to make decisions about their health care; OR
- The Arc has written permission from the person or their representative; OR
- A court has told us we have to.

C. Sharing mental hygiene PHI with the State Commission of Correction
There may be times when The Arc needs to share PHI with a medical review board. This might be because a court tells us we have to. It could also be because the medical review board has
oversight responsibility. The Arc can keep on sharing PHI to the review board of the state commission of correction if:

- The board has asked for PHI that has to do with someone’s death; OR
- The board needs the PHI to do their job AND we have permission from the person.

Written permission would be needed before PHI is shared with a medical review board for any other reason. The person or their representative would need to sign it.

E. Sharing mental hygiene PHI to find a missing person or for a criminal investigation

Only certain PHI can be shared with law enforcement to help look for someone who is missing:

- Name and address;
- Date and place of birth;
- Social security number;
- Blood type and rh factor;
- Type of injury;
- Date and time of treatment;
- Date and time of death, if applicable; and
- A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absences of facial hair (beard or moustache), scars, and tattoos

We cannot share PHI with any other government agency if someone is missing. The exception would be to OPWDD and the Justice Center if the law says we have to.

We cannot share PHI to any other government agency for a criminal investigation except when:

- We have written permission from the person
- We have to report an allegation of abuse or neglect, for investigations that are required by law, or to keep people safe … both the person we support or others in the community.
- The law says we have to tell law enforcement. Example: if there are certain types of wounds or injuries.
- A court tells us we have to.
• We need to report that someone we support has died.

• We believe the person may have badly hurt someone else.

F. Sharing mental hygiene PHI to keep someone from hurting themselves or someone else

There may be times when something happens to put the people we support or someone else at risk. When this happens, we can only share PHI to people who could keep it from happening or make it less likely. Examples: we could contact the people who could get hurt or the police.

H. Sharing mental hygiene PHI with a Correctional Facility or Division of Parole

If a person we support is an inmate, we can share PHI with the prison or jail without their permission to:

• Provide health care to them;

• Protect their health and safety,

• Protect the health and safety of someone else at the jail or prison;

• Help jail or prison staff do their jobs well;

• Keep the jail or prison safe and secure.

Once the person has been released from jail or prison, we would need written permission to share PHI.

Effective Date: 4/1/03

Revised:
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