

The Arc Jefferson-St. Lawrence New York POLICY AND PROCEDURE	POLICY #: 307	REVISION #/DATE: No: 2 01/20
BOARD APPROVAL DATE: N/A	DATE ISSUED: 03/14	EFFECTIVE DATE: 03/14
TITLE: Notice of Privacy Practices		Page 1 of 6

Synopsis of Policy: **Notice of Privacy Practices**

- 164.520 *Notice of Privacy Practices for PHI*

PURPOSE

This policy specifies the procedures to be followed in providing The Arc Jefferson-St. Lawrence New York People We Support with The Arc Jefferson-St. Lawrence New York’s *Notice of Privacy Practices*, as required by the federal Health Insurance Portability and Accountability Act of 1996 (the “Privacy Rule”).

POLICY

The Privacy Rule requires that The Arc Jefferson-St. Lawrence New York give People We Support detailed information about The Arc Jefferson-St. Lawrence New York privacy practices. A copy of The Arc Jefferson-St. Lawrence New York current, “*Notice of Privacy Practices*,” shall be given to all The Arc Jefferson-St. Lawrence New York People We Supports upon admission. Or, in the case of outpatients, at the time of service. In addition, a separate notice addressing the uses and disclosures of mental health information will be provided to inpatient and outpatient psychiatric patients.

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Full Policy Language:

DEFINITIONS

Health Care Operations: Covers a broad range of activities such as quality assessment, patient education and training, student training, contracting for health care services, medical review, legal services, auditing functions, compliance, business planning and development, licensing and accreditation, business management, and general administrative activities.

Payment: Can be defined as activities related to being paid for services rendered. These include eligibility determinations, billing, claims management, utilization review, etc. It also includes using debt collection and location agencies.

Protected health information or PHI: Defined as any individually identifiable health information collected or created as a consequence of the provision of health care by a covered entity, in any form (including verbal communications).

Treatment: Means providing, coordinating, or managing a patient’s care, and includes consultations between providers and referrals.

PROCEDURE

Notice of Privacy Practices

1. The Arc Jefferson-St. Lawrence New York must describe, in plain language, its privacy practices, including a Person We Support’s rights related to his or her PHI. This *Notice of Privacy Practices* (“Notice”) must be made available to People We Support and be posted throughout The Arc Jefferson-St. Lawrence New York facilities and on The Arc Jefferson-St. Lawrence New York website. The Arc Jefferson-St. Lawrence New York must also make a good faith effort to obtain a written acknowledgement from the individual that he or she has received the Notice.
2. The Notice must include the following elements:
 - a. **Header.** Notice given to People We Support regarding the use and disclosure of protected health information must be written in plain language and contain this statement prominently displayed: “THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.”

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b. *The uses and disclosures the provider will make of the PHI.* The Privacy Rule requires that the notice contain:

- i. A description, including at least one example, of the types of uses and disclosures of information that The Arc Jefferson-St. Lawrence New York is permitted to make for each of the following purposes: treatment, payment, and health care operations. The description must include sufficient detail to place the Person We Support on notice of the uses and disclosures that are permitted or required by state and federal law;
- ii. A description of each of the other purposes (other than Treatment, Payment, or Health Care Operations) for which The Arc Jefferson-St. Lawrence New York is permitted or required to use or disclose PHI without the Person We Support's written authorization;
- iii. Information as to when The Arc Jefferson-St. Lawrence New York will disclose protected health information without the People We Support's written consent or authorization, including, where applicable:
 - Uses and disclosures required by law
 - Uses and disclosures for public health activities
 - Disclosures about victims of abuse, neglect or domestic violence
 - Uses and disclosures for health oversight activities
 - Disclosures for judicial and administrative proceedings
 - Disclosures for law enforcement purposes
 - Uses and disclosures about decedents
 - Uses and disclosures for cadaveric organ, eye or tissue donations purposes
 - Uses and disclosures for research purposes
 - Uses and disclosures to avert a serious threat to health or safety
 - Uses and disclosure for specialized government functions
 - Disclosures for workers' compensation
- iv. A description of the following types of uses and disclosures that require an authorization under 45 CFR §164.508(a)(2)-(a)(4), including the prohibition on:
 - The sale of protected health information without the express written authorization of the People We Support; and
 - Marketing and disclosure of psychotherapy notes, except as appropriate with a proper authorization.
- v. A statement that other uses and disclosures will be made only with the Person We Support's written authorization, and that the Person We Support may revoke this authorization at any time in writing; and
- vi. The Arc Jefferson-St. Lawrence New York must include a separate

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statement if they contact People We Support for: (i) Appointment reminders or to provide information regarding treatment alternatives or other health-related benefits, including services that may be of interest to the individual; or (ii) fundraising.

- c. **Individual Rights.** The Notice must contain a statement of the Person We Support’s rights with respect to PHI and how he or she may exercise the right to:
 - i. Inspect and copy PHI;
 - ii. Amend PHI;
 - iii. Receive an accounting of disclosures of PHI;
 - iv. Request restrictions on certain uses and disclosures of information including a statement that The Arc Jefferson-St. Lawrence New York is not required to agree to a requested restriction;
 - v. Receive confidential communications of PHI; and
 - vi. Obtain a paper copy of the notice upon request.

- d. **Provider Duties.** The Notice needs to explain that The Arc Jefferson-St. Lawrence New York, under the law, must:
 - i. Maintain the privacy of PHI and provide People We Support with notice of its legal duties and privacy practices;
 - ii. Abide by the terms of the Notice currently in effect; and
 - iii. State in the Notice that The Arc Jefferson-St. Lawrence New York reserves the right to change the terms of its Notice and to make the new Notice provisions effective for all PHI it maintains. The statement must also explain how The Arc Jefferson-St. Lawrence New York will provide individuals with a revised Notice.

- e. **Complaints.** The Notice must explain that People We Support may file a complaint with The Arc Jefferson-St. Lawrence New York and/or the Secretary of HHS if they believe their privacy rights have been violated. A brief description of how to file a complaint with The Arc Jefferson-St. Lawrence New York must be included. The Notice must also include a statement that the People We Support will not be retaliated against for filing a complaint.

- f. **Contact Information.** The Notice must contain the name, or title, and telephone number of a person or office to contact for further information.

- g. **Effective Date.** The Notice must contain its effective date.

- h. **Font Size.** California law requires that information produced by a hospital regarding patients’ rights be printed in 12-point font or larger.

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Dissemination and Publication of the Notice of Privacy Practices

3. The Arc Jefferson-St. Lawrence New York must provide the Notice to its Persons Supported no later than the date of the first service delivery by a direct care provider. The Notice may also be given to an individual by e-mail, if the Person We Support agrees to such electronic notice. If The Arc Jefferson-St. Lawrence New York knows that the e-mail transmission has failed, it must provide a hard paper copy. If the first service is delivered electronically, The Arc Jefferson-St. Lawrence New York must send the notice electronically, automatically, and contemporaneously.
4. The Arc Jefferson-St. Lawrence New York must make the Notice available for People We Support to take with them. (When the Person We Support is not physically present, the Notice may be sent by first class mail.)
5. The Notice must be posted in a clear and prominent location where it is reasonable to expect patients to be able to read the Notice.
6. The Notice shall be posted prominently on The Arc Jefferson-St. Lawrence New York website and shall be available electronically through the website.
7. People We Support will be informed of their right to restrict directory information. Requests for restrictions to the Facility Directory will be referred to the Director of Corporate Compliance. Other requests for further restrictions, such as the use and disclosure of information, will be referred to The Arc Jefferson-St. Lawrence for consideration.
8. If revised, The Arc Jefferson-St. Lawrence New York must make the revised Notice available upon request and post the revised Notice.
9. No Notice is required to be given to inmates who may receive treatment at a The Arc Jefferson-St. Lawrence New York facility.
10. In the case of People We Support who are minors, the Notice should be given to the minor's parent or guardian.

Acknowledgement of Notice of Privacy Practices

11. Except in the case of an emergency treatment situation, The Arc Jefferson-St. Lawrence New York must make a good faith effort to obtain a written Acknowledgement that the Person We Support received The Arc Jefferson-St. Lawrence New York Notice. If some Person We Support refuses to sign the Acknowledgement, then The Arc Jefferson-St.

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Lawrence New York must document the good faith efforts taken and the reason why the Acknowledgement was not obtained.

12. A “good faith effort” to obtain written acknowledgment is not required: (1) where emergency treatment/stabilization is required; or (2) when the Notice is mailed, and the Person We Support does not return the acknowledgement form, no further effort need be made.
13. Acknowledgement of the Notice will be completed during the intake process. The electronic ADT system flag will be updated to reflect the Acknowledgement has been signed or refused. The Acknowledgement form will be sent to the Health Information Management Services Department for scanning into the Electronic Medical Record. If the form is not scanned within 30 calendar days from the date of signing, the electronic ADT system flag will revert back to its original state to reflect that the Acknowledgment Notice has not been obtained. Upon the Person We Support’s next encounter the process will repeat until the signed or refused Acknowledgement is scanned.
14. A separate ADT flag will be set when the Notice of Privacy Practices for Mental Health has been obtained, but the flag will only be visible to staff with access to the psychiatric registration and encountering system.

Revisions to the Notice of Privacy Practices

15. The Arc Jefferson-St. Lawrence New York must promptly revise and distribute its Notice whenever there is a material change to the uses and disclosures, Person We Support’s rights, The Arc Jefferson-St. Lawrence New York legal duties, or other privacy practices stated in the Notice. The revised Notice will be posted in the service delivery areas and will be provided to Person We Supports upon request. The revised Notice will also be posted on The Arc Jefferson-St. Lawrence New York website as indicated above.

Record Retention

16. All versions of The Arc Jefferson-St. Lawrence New York approved, “Notice of Privacy Practices,” will be archived and maintained by the Compliance Office for a period no less than six (6) years.

REFERENCES

Health Insurance Portability and Accountability Act, 45 CFR 160