

**ADAMH BOARD OF FRANKLIN COUNTY
HIPAA Privacy Policy H.01.010**

GENERAL RULES FOR USES AND DISCLOSURES OF PROTECTED HEALTH INFORMATION

A. PURPOSE STATEMENT

The purpose of this policy is to provide an overview to all ADAMH workforce members regarding general rules associated with uses and disclosures of protected health information.¹

According to the U.S. Department of Health and Human Services, "The HIPAA Privacy Rule provides federal protections for personal health information held by covered entities and gives patients an array of rights with respect to that information. At the same time, the Privacy Rule is balanced so that it permits the disclosure of personal health information needed for patient care and other important purposes."

B. SCOPE

This policy applies to all ADAMH workforce members, including Board of Trustees members, employees, volunteers, trainees, and other persons whose conduct, in the performance of work for ADAMH, is under the direct control of ADAMH, regardless of whether they are paid by ADAMH.

C. POLICY STATEMENT

1. Generally, ADAMH may not use or disclose protected health information except as permitted or required by law.
2. Permitted and Required Uses and Disclosures
 - a. ADAMH is **permitted** to use or disclose protected health information as follows:
 - i. To the individual;
 - ii. For treatment, payment, or health care operations, within specified limits;
 - iii. Incident to a use or disclosure otherwise permitted or required by HIPAA regulations;
 - iv. Pursuant to and in compliance with a valid authorization;
 - v. Pursuant to a business associate agreement;
 - vi. As permitted by and in compliance with HIPAA regulations, unless Ohio regulations are more stringent in which case Ohio law will be the compliance standard.²
 - b. ADAMH is **required** to disclose protected health information:
 - i. To an individual, when requested;
 - ii. When required by the Secretary of Health and Human Services to investigate or determine ADAMH's compliance with this HIPAA regulation.
 - c. ADAMH's business associates may use or disclose protected health information only as permitted or required by its business associate agreement or other arrangement or as required by law. The business associate may not use or disclose protected health information in a manner that would violate this HIPAA regulation, if done by ADAMH, except for the purposes specified under the

¹ CFR Title 45, Section 164.502 Uses and Disclosures of Protected Health Information: General Rules

² O.R.C. Chapter 3798: Protected Health Information § 3798.02 Legislative Intent: "It is the intent of the general assembly in enacting this chapter to make the laws of this state governing the use and disclosure of protected health information by covered entities consistent with, but generally not more stringent than, the HIPAA privacy rule for the purpose of eliminating barriers to the adoption and use of electronic health records and health information exchanges. Therefore, it is also the general assembly's intent in enacting this chapter to supersede any judicial or administrative ruling issued in this state that is inconsistent with the provisions of this chapter."

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agreement if such uses or disclosures are permitted by its contract or other arrangement.

- d. ADAMH's business associates are required to disclose protected health information:
 - i. When required by the Secretary to investigate or determine the business associate's compliance with this HIPAA regulation;
 - ii. To ADAMH, the individual, or individual's designee, as necessary to satisfy ADAMH's obligations with respect to an individual's request for an electronic copy of protected health information.
- e. Prohibited uses and disclosures³
 - i. Use and disclosure of genetic information for underwriting purposes;
 - ii. Sale of protected health information
- 3. Minimum Necessary⁴
 - a. Generally, when using or disclosing protected health information, or when requesting protected health information from another entity, ADAMH and its business associates must make reasonable efforts to limit the protected health information to the minimum necessary to accomplish the purpose of the use, disclosure or request.
 - b. This requirement does not apply to:
 - i. Disclosures to or requests by a health care provider for treatment;
 - ii. Uses or disclosures made to the individual, as permitted or required;
 - iii. Uses or disclosures made pursuant to an authorization;
 - iv. Disclosures made to the Secretary of Health and Human Services;
 - v. Uses or disclosures that are required by law;
 - vi. Uses or disclosures that are required for compliance with applicable HIPAA requirements.
- 4. Uses and Disclosures of Protected Health Information Subject to an Agreed Upon Restriction
 - a. If ADAMH has agreed to a restriction, it may not use or disclose the protected health information covered by the restriction in violation of such restriction.
- 5. Uses and Disclosures of De-Identified Protected Health Information⁵
 - a. Uses and disclosures to create de-identified information: ADAMH may use protected health information to create information that is not individually identifiable health information or disclose protected health information only to a business associate for such purpose, whether or not the de-identified information is to be used by ADAMH.
 - b. Uses and disclosures of de-identified information: Health information may be considered not to be individually identifiable in the following circumstances:
 - i. A person with appropriate knowledge and experience with generally acceptable statistical and scientific principles and methods determines

³ O.R.C. Chapter 3798: Protected Health Information § 3798.04 Prohibited Disclosures of Protected Health Information

⁴ CFR Title 45, Section 164.502(b) – Standard: Minimum necessary

⁵ CFR Title 45, Section 164.502(d) – Standard: Uses and disclosures of de-identified information

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that the risk is very small that the information could be used, alone or with other reasonably available information, to identify the individual who is the subject of the information; or

- ii. The following identifiers of the individual (and relatives, employers, or household members) are removed: names; information relating to the individual's geographic subdivision if it contains fewer than 20,000 people; elements of dates (except year) directly related to the individual, and all ages and elements of dates that indicate age for individuals over 89, unless aggregated into a single category of age 90 and older; telephone numbers; fax numbers; email addresses; social security numbers; medical record numbers; health plan beneficiary numbers; account numbers; certificate or license numbers; vehicle identifiers and serial numbers, including license plate numbers; device identifiers and serial numbers; web universal resource locators (urls); internet protocol (IP) address numbers; biometric identifiers; full face photographic images; and, any other unique identifying number, characteristic or code.
6. Disclosures to business associates
- a. ADAMH may disclose protected health information to a business associate and may allow a business associate to create, receive, maintain, or transmit protected health information on its behalf, if ADAMH obtains satisfactory assurance that the business associate will appropriately safeguard the information.
 - b. An ADAMH business associate may disclose protected health information to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit protected health information on its behalf, if the business associate obtains satisfactory assurances that the subcontractor will appropriately safeguard the information.
7. Deceased individuals: ADAMH must comply with the requirements with respect to the protected health information of a deceased individual for a period of 50 years following the death of the individual.
8. Personal representatives⁶
- a. A person acting in the role of personal representative must be treated as the individual regarding access to relevant protected health information unless:
 - i. The individual is an unemancipated minor, but is authorized to give lawful consent, or may obtain the health care without consent of the personal representative, and minor has not requested that the person be treated as a personal representative, or the personal representative has assented to agreement of confidentiality between the provider and the minor;
 - ii. There is a reasonable basis to believe that the individual has been or may be subjected to domestic violence, abuse or neglect by the personal representative or that treating that person as a personal representative could endanger the individual, and, in the exercise of professional judgment, it is determined not to be in the best interests of the individual to treat that person as a personal representative.
9. Confidential Communications⁷

⁶ CFR Title 45, Section 164.502(g) – Standard: Personal representatives

⁷ CFR Title 45, Section 164.502(h) – Standard: Confidential communications

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- a. ADAMH must comply with the applicable confidential communications requirements in communicating protected health information.
10. Uses and Disclosures Consistent with Notice
- a. ADAMH may not use or disclose protected health information in a manner inconsistent with its notice of privacy practices for protected health information.
11. Disclosures by Whistleblowers and Workforce Member Crime Victims
- a. Disclosures by whistleblowers: ADAMH is not considered to have violated these requirements if a member of its workforce or a business associate discloses protected health information that:
 - i. The workforce member or business associate believes in good faith that ADAMH has engaged in conduct that is unlawful or otherwise violates professional or clinical standards, or that the care, services, or conditions provided by ADAMH potentially endangers one or more patients, workers, or the public; and
 - ii. The disclosure is to:
 - (a) A health oversight agency or public health authority authorized by law to investigate or otherwise oversee the relevant conduct or conditions of ADAMH or to an appropriate health care accreditation organization for the purpose of reporting the allegation of failure to meet professional standards or misconduct by ADAMH; or
 - (b) An attorney retained by or on behalf of the workforce member or business associate for the purpose of determining the legal options of the workforce member or business associate with regard to ADAMH's conduct.
 - b. Disclosures by workforce members who are victims of a crime. ADAMH is not considered to have violated these requirements if a member of its workforce who is the victim of a criminal act discloses protected health information to a law enforcement official, provided that:
 - i. The protected health information disclosed is about the suspected perpetrator of the criminal act; and
 - ii. The protected health information disclosed is limited to name and address; date and place of birth; social security number; ABO blood type and rh factor; type of injury; date and place of treatment; date and time of death, if applicable; and a description of distinguishing characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.