

**ADAMH BOARD OF FRANKLIN COUNTY
HIPAA Privacy Policy H.01.070**

**OTHER REQUIREMENTS RELATING TO USES AND DISCLOSURES OF
PROTECTED HEALTH INFORMATION**

A. PURPOSE STATEMENT

The purpose of this policy is to outline other requirements relating to uses and disclosures of protected health information, including de-identified protected health information; minimum necessary use; limited data sets; and verification.¹

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. De-identification of protected health information: Health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual is not individually identifiable health information.
 - a. Requirements for de-identification of protected health information: ADAMH may determine that health information is not individually identifiable health information only if:
 - i. A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable:
 - (a) Applying such principles and methods, determines that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify an individual who is a subject of the information; and
 - (b) Documents the methods and results of the analysis that justify such determination;
 - OR
 - ii. Identifiers of the individual or of relatives, employers, or household members of the individual are removed; and
 - iii. ADAMH does not have actual knowledge that the information could be used alone or in combination with other information to identify an individual who is a subject of the information
 - b. Reidentification: ADAMH may assign a code or other means of record identification to allow information de-identified under this section to be re-identified by ADAMH, provided that:
 - i. Derivation: The code or other means of record identification is not derived from or related to information about the individual and is not otherwise capable of being translated so as to identify the individual; and
 - ii. Security: ADAMH does not use or disclose the code or other means of record identification for any other purpose and does not disclose the mechanism for re-identification.

¹ CFR Title 45, Section 164.514 Other Requirements Relating to Uses and Disclosures of Protected Health Information

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2. Minimum necessary requirements – In order to comply, ADAMH must meet these requirements with respect to a request for, or the use and disclosure of, protected health information:
- a. Minimum necessary uses of protected health information – ADAMH must identify:
 - i. Those persons or classes of persons, as appropriate, in its workforce who need access to protected health information to carry out their duties; and
 - ii. For each such person or class of persons, the category or categories of protected health information to which access is needed and any conditions appropriate to such access.
 - (A) ADAMH must make reasonable efforts to limit the access of such persons or classes to that protected health information.
 - b. Minimum necessary disclosures of protected health information
 - (i) For any type of disclosure that it makes on a routine and recurring basis, ADAMH must implement policies and procedures (which may be standard protocols) that limit the protected health information disclosed to the amount reasonably necessary to achieve the purpose of the disclosure.
 - (ii) For all other disclosures, ADAMH must:
 - (A) Develop criteria designed to limit the protected health information disclosed to the information reasonably necessary to accomplish the purpose for which disclosure is sought; and
 - (B) Review requests for disclosure on an individual basis in accordance with such criteria.
 - (iii) ADAMH may rely, if such reliance is reasonable under the circumstances, on a requested disclosure as the minimum necessary for the stated purpose when:
 - (A) Making disclosures to public officials that are permitted under §164.512², if the public official represents that the information requested is the minimum necessary for the stated purpose(s);
 - (B) The information is requested by another covered entity;
 - (C) The information is requested by a professional who is a member of its workforce or is a business associate of the covered entity for the purpose of providing professional services to the covered entity, if the professional represents that the information requested is the minimum necessary for the stated purpose(s);
or
 - (D) Documentation or representations that comply with the applicable requirements of §164.512(i) have been provided by a person requesting the information for research purposes.
 - c. Minimum necessary requests for protected health information

² 45 CFR §164.512 – Uses and disclosures for which an authorization or opportunity to agree or object is not required

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- i. ADAMH must limit any request for protected health information to that which is reasonably necessary to accomplish the purpose for which the request is made, when requesting such information from other covered entities.
 - ii. For a request that is made on a routine and recurring basis, ADAMH must implement policies and procedures (which may be standard protocols) that limit the protected health information requested to the amount reasonably necessary to accomplish the purpose for which the request is made.
 - iii. For all other requests, ADAMH must:
 - (A) Develop criteria designed to limit the request for protected health information to the information reasonably necessary to accomplish the purpose for which the request is made; and
 - (B) Review requests for disclosure on an individual basis in accordance with such criteria.
 - d. Other content requirement: For all uses, disclosures, or requests to which the requirements in this section (Minimum Necessary Requirements) apply, ADAMH may not use, disclose or request an entire medical record, except when the entire medical record is specifically justified as the amount that is reasonably necessary to accomplish the purpose of the use, disclosure, or request. *NOTE: ADAMH does not maintain nor have access to medical records.*
- 3. Limited data set: ADAMH may use or disclose a limited data set that meets the definition of the set and is for permitted purposes for uses and disclosures if ADAMH enters into a data use agreement with the limited data set recipient.
 - a. Definition: A limited data set is protected health information that excludes direct identifiers of the individual or of relatives, employers, or household members of the individual.
 - b. Permitted purposes for uses and disclosures
 - i. ADAMH may use or disclose a limited data set only for the purposes of research, public health, or health care operations.
 - ii. ADAMH may use protected health information to create a limited data set or disclose protected health information only to a business associate for such purpose, whether or not the limited data set is to be used by ADAMH.
 - c. Data use agreement:
 - i. ADAMH may use or disclose a limited data set only if ADAMH obtains satisfactory assurance, in the form of a data use agreement, that the limited data set recipient will only use or disclose the protected health information for limited purposes.
 - ii. A data use agreement between ADAMH and the limited data set recipient must:
 - (A) Establish the permitted uses and disclosures of such information by the limited data set recipient. The data use agreement may not authorize the limited data set recipient to use or further disclose the information in a manner that would violate these requirements, if done by the ADAMH.
 - (B) Establish who is permitted to use or receive the limited data set; and

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- (C) Provide that the limited data set recipient will:
 - (1) Not use or further disclose the information other than as permitted by the data use agreement or as otherwise required by law;
 - (2) Use appropriate safeguards to prevent use or disclosure of the information other than as provided for by the data use agreement;
 - (3) Report to ADAMH any use or disclosure of the information not provided for by its data use agreement of which it becomes aware;
 - (4) Ensure that any agents to whom it provides the limited data set agree to the same restrictions and conditions that apply to the limited data set recipient with respect to such information; and
 - (5) Not identify the information or contact the individuals.
- iii. Compliance.
 - (A) ADAMH is not in compliance if ADAMH knew of a pattern of activity or practice of the limited data set recipient that constituted a material breach or violation of the data use agreement, unless ADAMH took reasonable steps to cure the breach or end the violation, as applicable, and, if such steps were unsuccessful:
 - (1) Discontinued disclosure of protected health information to the recipient; and
 - (2) Reported the problem to the Secretary.
 - (B) A covered entity that is a limited data set recipient and violates a data use agreement will be in noncompliance with the standards, implementation specifications, and requirements of this section.
- 4. Verification requirements
 - a. Prior to any permitted disclosure, ADAMH must:
 - i. Except with respect to disclosures requiring an opportunity for the individual to agree or to object, verify the identity of a person requesting protected health information and the authority of any such person to have access to protected health information, if the identity or any such authority of such person is not known to ADAMH; and
 - ii. Obtain any documentation, statements, or representations, whether oral or written, from the person requesting the protected health information when such documentation, statement, or representation is a condition of the disclosure.
 - b. Verification
 - i. Conditions of disclosure: If a disclosure is conditioned on particular documentation, statements, or representations from the person requesting the protected health information, ADAMH may rely, if such reliance is reasonable under the circumstances, on documentation, statements, or representations that, on their face, meet the applicable requirements.

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- ii. Identity of public officials: ADAMH may rely, if such reliance is reasonable under the circumstances, on any of the following to verify identity when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:
 - (A) If the request is made in person, presentation of an agency identification badge, other official credentials, or other proof of government status;
 - (B) If the request is in writing, the request is on the appropriate government letterhead; or
 - (C) If the disclosure is to a person acting on behalf of a public official, a written statement on appropriate government letterhead that the person is acting under the government's authority or other evidence or documentation of agency, such as a contract for services, memorandum of understanding, or purchase order, that establishes the person is acting on behalf of the public official.

- iii. Authority of public officials. ADAMH may rely, if such reliance is reasonable under the circumstances, on any of the following to verify authority when the disclosure of protected health information is to a public official or a person acting on behalf of the public official:
 - (A) A written statement of the legal authority under which the information is requested, or, if a written statement would be impracticable, an oral statement of such legal authority;
 - (B) If a request is made pursuant to legal process, warrant, subpoena, order, or other legal process issued by a grand jury or a judicial or administrative tribunal is presumed to constitute legal authority.

- iv. Exercise of professional judgment. The verification requirements of this paragraph are met if ADAMH relies on the exercise of professional judgment in making a use or disclosure requiring an opportunity for the individual to agree or to object or acts on a good faith belief in making a disclosure which an authorization or opportunity to agree or object is not required.