

**ADAMH BOARD OF FRANKLIN COUNTY
HIPAA Privacy Policy H.01.180**

NOTIFICATION IN THE CASE OF BREACH OF UNSECURED PROTECTED HEALTH INFORMATION

A. PURPOSE STATEMENT

The purpose of this policy is to issue instructions for the investigation and reporting of breaches of unsecured protected health information.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. Notification to individuals²: ADAMH shall, following the discovery of a breach of unsecured protected health information, notify each individual whose unsecured protected health information has been, or is reasonably believed by ADAMH to have been, accessed, acquired, used, or disclosed as a result of such breach.
2. Notification to the media³: For a breach of unsecured protected health information involving more than 500 residents (consumers), ADAMH shall, following the discovery of the breach notify prominent media outlets serving the jurisdiction.
3. Notification to the Secretary⁴: ADAMH shall, following the discovery of a breach of unsecured protected health information, notify the HHS Secretary:
 - a. Breaches involving 500 or more individuals: ADAMH shall provide the notification contemporaneously with the notice to individuals and in the manner specified on the HHS web site;
 - b. Breaches involving less than 500 individuals: ADAMH shall maintain a log or other documentation of such breaches and, not later than 60 days after the end of each calendar year, provide the notification for breaches discovered during the preceding calendar year, in the manner specified on the HHS web site.
4. Notification by a business associate⁵: A business associate of ADAMH shall, following the discovery of a breach of unsecured protected health information, notify ADAMH of such breach.
5. Law enforcement delay⁶: If a law enforcement official states to ADAMH or an ADAMH business associate that a notification, notice, or posting would impede a criminal investigation or cause damage to national security, ADAMH or the ADAMH business associate shall:
 - a. If the statement is in writing and specifies the time for which a delay is required, delay such notification, notice, or posting for the time period specified by the official; or
 - b. If the statement is made orally, document the statement, including the identity of the official making the statement, and delay notification, notice, or posting

¹ Subpart D—Notification in the Case of Breach of Unsecured Protected Health Information

² 45 CFR §164.404 Notification to individuals

³ 45 CFR §164.406 Notification to the media

⁴ 45 CFR §164.408 Notification to the Secretary

⁵ 45 CFR §164.410 Notification by a business associate

⁶ 45 CFR §164.412 Law enforcement delay

ADAMH BOARD OF FRANKLIN COUNTY
HIPAA Privacy Policy H.01.180

temporarily and no longer than 30 days from the date of the oral statement, unless a written statement is submitted during that time.

6. Administrative requirements and burden of proof⁷:
 - a. ADAMH is required to comply with the requirements about training; complaints to a covered entity; sanctions; refraining from intimidating or retaliatory acts; waiver of rights; policies and procedures; and documentation.
 - b. In the event of a use or disclosure that violates the privacy of individually identifiable health information, ADAMH or an ADAMH business associate, as applicable, shall have the burden of demonstrating that all notifications were made or that the use or disclosure did not constitute a breach.

⁷ 45 CFR §164.414 Administrative requirements and burden of proof