

**ADAMH BOARD OF FRANKLIN COUNTY
HIPAA Privacy Policy H.01.040**

USES AND DISCLOSURES FOR WHICH AN AUTHORIZATION IS REQUIRED

A. PURPOSE STATEMENT

The purpose of this policy is to issue instructions for the use and disclosure of protected health information and necessary documentation of authority for such use or disclosure when the use or disclosure is for purposes outside of those permitted for treatment, payment or health care operations or under other provisions of law. This includes psychotherapy notes, marketing, or sale of 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. Authorizations for uses and disclosures—
 - a. Authorization required: Except as otherwise permitted or required, ADAMH may not use or disclose protected health information without a valid authorization. When ADAMH obtains or receives a valid authorization for its use or disclosure of protected health information, such use or disclosure must be consistent with such authorization.
 - b. Authorization required: Psychotherapy notes (which ADAMH does not maintain nor have access to)
 - c. Authorization required: Marketing.
 - i. ADAMH must obtain an authorization for any use or disclosure of protected health information for marketing, except if the communication is in the form of:
 - (A) A face-to-face communication made by ADAMH to an individual; or
 - (B) A promotional gift of nominal value provided by ADAMH
 - ii. If the marketing involves financial remuneration to ADAMH from a third party, the authorization must state that such remuneration is involved.
 - d. Authorization required: Sale of protected health information.
 - i. ADAMH must obtain an authorization for any disclosure of protected health information which is a sale of protected health information.
 - ii. Such authorization must state that the disclosure will result in remuneration to the covered entity.
2. General requirements
 - a. Valid authorizations.
 - i. A valid authorization may contain elements or information in addition to the elements required by this section, provided that such additional elements or information are not inconsistent with the elements required by this section.
 - b. Defective authorizations. An authorization is not valid, if the document submitted has any of the following defects:

¹ §164.508 Uses and Disclosures for which an Authorization Is Required

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- i. The expiration date has passed or the expiration event is known by the covered entity to have occurred;
 - ii. The authorization has not been filled out completely, with respect to "core elements and requirements," if applicable;
 - iii. The authorization is known by ADAMH to have been revoked;
 - iv. The authorization violates paragraph c. (Compound authorizations) or d. (Prohibition on conditioning of authorizations), if applicable;
 - v. Any material information in the authorization is known by the covered entity to be false.
- c. Compound authorizations. An authorization for use or disclosure of protected health information may not be combined with any other document to create a compound authorization, except as follows:
- i. An authorization for the use or disclosure of protected health information for a research study may be combined with any other type of written permission for the same or another research study.
 - ii. An authorization for a use or disclosure of psychotherapy notes may only be combined with another authorization for a use or disclosure of psychotherapy notes.
 - iii. An authorization under this section, other than an authorization for a use or disclosure of psychotherapy notes, may be combined with any other such authorization under this section, except when a covered entity has conditioned the provision of treatment, payment, enrollment in the health plan, or eligibility for benefits under paragraph (b)(4) of this section on the provision of one of the authorizations.
- d. Prohibition on conditioning of authorizations. ADAMH may not condition the provision to an individual of treatment, payment, enrollment in the health plan, or eligibility for benefits on the provision of an authorization, except:
- i. ADAMH may condition enrollment in the health plan or eligibility for benefits on provision of an authorization requested by ADAMH prior to an individual's enrollment in the health plan, if:
 - (A) The authorization sought is for ADAMH's eligibility or enrollment determinations relating to the individual; and
 - (B) The authorization is not for a use or disclosure of psychotherapy notes; and
 - ii. ADAMH may condition the provision of health care that is solely for the purpose of creating protected health information for disclosure to a third party on provision of an authorization for the disclosure of the protected health information to such third party.
- e. Revocation of authorizations. An individual may revoke an authorization at any time, provided that the revocation is in writing, except to the extent that:
- i. ADAMH has taken action in reliance thereon; or
 - ii. If the authorization was obtained as a condition of obtaining insurance coverage, other law provides the insurer with the right to contest a claim under the policy or the policy itself.
- f. Documentation. A covered entity must document and retain any signed authorization.

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3. Core elements and requirements
 - a. Core elements. A valid authorization under this section must contain at least the following elements:
 - i. A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.
 - ii. The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.
 - iii. The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure.
 - iv. A description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose.
 - v. An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. The statement "end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of protected health information for research, including for the creation and maintenance of a research database or research repository.
 - vi. Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual must also be provided.
 - b. Required statements. In addition to the core elements, the authorization must contain statements adequate to place the individual on notice of all of the following:
 - i. The individual's right to revoke the authorization in writing, and either:
 - (A) The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or
 - (B) To the extent that the information in paragraph (c)(2)(i)(A) of this section is included in the notice required by §164.520, a reference to the covered entity's notice.
 - ii. The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:
 - (A) The covered entity may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations in paragraph (b)(4) of this section applies; or
 - (B) The consequences to the individual of a refusal to sign the authorization when, in accordance with paragraph (b)(4) of this section, the covered entity can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.
 - iii. The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by this subpart.
 - c. Plain language requirement. The authorization must be written in plain language.

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- d. Copy to the individual. If a covered entity seeks an authorization from an individual for a use or disclosure of protected health information, the covered entity must provide the individual with a copy of the signed authorization.