

**ADAMH BOARD OF FRANKLIN COUNTY  
HIPAA Privacy Policy H.01.100**

**ACCESS OF INDIVIDUALS TO PROTECTED HEALTH INFORMATION**

**A. PURPOSE STATEMENT**

The purpose of this policy is to issue instructions related to a consumer's right to inspect and copy protected health information, when allowable.<sup>12</sup>

**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. Access to Protected Health Information

- a. Right of access: An individual has a right of access to inspect and obtain a copy of protected health information about the individual in ADAMH's designated record set, for as long as the protected health information is maintained in the designated record set, except for:
  - i. Psychotherapy notes (which ADAMH does not maintain nor have access to); and
  - ii. Information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
- b. Unreviewable grounds for denial: ADAMH may deny an individual access without providing the individual an opportunity for review, in the following circumstances.
  - i. The protected health information is psychotherapy notes or information compiled in reasonable anticipation of, or for use in, a civil, criminal, or administrative action or proceeding.
  - ii. An individual's access to protected health information that is contained in records that are subject to the Privacy Act, 5 U.S.C. 552a<sup>3</sup> may be denied, if the denial of access under the Privacy Act would meet the requirements of that law.
- c. Denial of Access with a Right of Review
  - i. Access may be denied, though denial is subject to review where:
    - (A) Access is determined by a licensed health care professional to be likely to endanger life or physical safety of the individual or another person;
    - (B) Access is requested by a personal representative and a licensed health care professional determines that such access is reasonably likely to cause substantial harm.
- d. Right of Review
  - i. If the basis for denial of access gives a right of review, the individual has a right to have the denial reviewed by another licensed health care professional who did not participate in the original denial decision.

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<sup>1</sup> CFR Title 45, Section 164.524 Access of Individuals to Protected Health Information

<sup>2</sup> Ohio Revised Code 3798.03 Duty of covered entities

<sup>3</sup> Records maintained on individuals

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- ii. Such review must be completed within a reasonable period of time, and ADAMH must promptly:
  - (A) Provide the individual with notice of the reviewer's decision, and
  - (B) Comply with the determination to provide or deny access.
- e. Requests for Access and Timely Action
  - i. ADAMH must permit an individual to request access to inspect or to obtain a copy of the protected health information about the individual that is maintained in a designated record set. ADAMH may require individuals to make requests for access in writing, provided that it informs individuals of such a requirement.
  - ii. The ADAMH Board must act on a request for access no later than 30 days after receipt unless the time period is extended as permitted below:
    - (A) If ADAMH is unable to act on the request for access within the applicable 30 day period, it may extend the time for response by no more than 30 days, provided that, within the original allotted time period, ADAMH gives the individual written notice of the reasons for the delay and the date by which a responsive action will be taken.
- f. Provision of Access
  - i. ADAMH must provide the access requested by individuals, including inspection of or obtaining a copy, or both, of the protected health information about them in designated record sets.
    - (A) If the information is maintained in more than one place, the information need only be produced once in response to a current request for access
  - ii. ADAMH must provide the individual with access to the protected health information in the form or format requested by the individual, if it is readily producible in such form or format, or in a readable hard copy or other form or format as mutually agreed to, either by arranging for a convenient time and place for inspection and copying or mailing the protected health information at the individual's request.
    - (A) ADAMH may provide a summary of the protected health information in lieu of providing access to the protected health information or may provide an explanation of the protected health information to which access has been provided, if the individual agrees in advance to such a summary or explanation.
    - (B) If an individual's request for access directs ADAMH to transmit the copy of protected health information directly to another person designated by the individual, ADAMH must provide the copy to the person designated by the individual. The individual's request must be in writing, signed by the individual, and clearly identify the designated person and where to send the copy of protected health information.
    - (C) ADAMH may impose a reasonable, cost-based fee for copying or preparing a summary or explanation of the information provided that the fee includes only the cost of copying supplies, postage, and labor for preparing the summary or explanation as agreed to by the individual. The calculation of cost shall be limited further as required under the privacy regulations.

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- g. Denial of Access

  - i. ADAMH must provide a timely, written denial of access to the individual, written in plain language, explaining the basis for the denial and any applicable right of review and describing how the individual may complain to ADAMH (including name or title of contact and phone number) or the U.S. Secretary of Health and Human Services.

    - (A) To the extent possible, the individual must be given access to any protected health information requested after excluding the information for which ADAMH has grounds for denying access.
    - (B) If ADAMH does not maintain the protected health information for which access has been requested, but knows where it is maintained, ADAMH must inform the individual where to direct the request for access.
- h. Documentation

  - i. ADAMH must document and retain for six years from the date of its creation the designated record sets subject to access and the names or titles of persons responsible for receiving and processing requests for access.