



**Medical Records**

The purpose of this procedure is to insure right of access to relevant exposure and medical records to employees and/or their designated representatives.

**Key Responsibilities**

**E&B Safety Manager**

- Develops local medical records practices for all worksites in accordance with this procedure and ensures employees are aware of the requirements of this procedure.
- Responsible for the review, implementation and maintenance of the local worksite medical records procedure.

**Branch Manager**

- Responsible for the implementation and maintenance of the medical records procedure for their facility and ensuring all assets are made available for compliance with the procedure.

**Employees**

- All shall be familiar with this procedure and have access to their records.

**Overview**

This section applies to all employee exposure and medical record, and analysis thereof, made or maintained in any manner, including on an in-house or contractual (e.g., fee-for-service) basis.

Trade secret information disclosure must follow requirements as stated in 29 CFR 1910.1020 (f) (8).

Recognized collective bargaining agents who have statutory authority to represent the interests of the employees within the bargaining unit are automatically considered designated representatives. While these representatives do not have the right to secure individual medical records without written consent of the employee, they have the right of access to employee exposure records and analysis without employee consent.

**Definitions**

Access means the right and opportunity to examine and copy.

Analysis of exposure or medical records means any compilation of data, and research, or other studies based, at least in part, on information collected from individual employee exposure or medical records or other sources including information from health insurance claim forms provided that either the analysis must have been reported to the employer or no further work is being done by the person responsible for preparing the analysis.

Designated representative will mean any individual or organization to which an employee gives written authorization to exercise a right of access. For the purposes of access to employee exposure records and analyses using exposure or medical records, a recognized or certified collective bargaining agent shall be treated automatically as a designated representative without regard to written employee authorization.

Employee exposure records could include any of the types of information listed below:

Environmental (workplace) monitoring or measuring of a toxic substance or harmful physical agent, including personal, area, grab, wipe, or other form of sampling, as well as related collection and analytical methodologies, calculations, and other background data relevant to interpretation of the results obtained;

- Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (e.g., the level of a chemical in the blood, urine, breath, hair, fingernails, etc.) but not including results which assess the biological effect of a substance or agent or which assess an employee's use of alcohol or drugs;
- Material safety data sheets indicating that the material may pose a hazard to human health; or In the absence of the above, a chemical inventory or any other record which reveals where and when used and the identity (e.g., chemical, common, or trade name) of a toxic substance or harmful physical agent.

Employee medical records are records that concern the health status of an employee and are made or maintained by a physician, nurse, or other health care personnel or technician. "Employee medical record" means a record concerning the health status of an employee which is made or maintained by a physician, nurse or other health care personnel, or technician.

NOTE: The following will not be considered a medical record:

- Physical specimens, such as blood or urine samples, which are routinely discarded.
- Health insurance claims, accident investigation reports and other non-medical correspondence if maintained separately from the medical file.
- The record of any voluntary employee assistance program (alcohol, drug, etc.) if maintained separately.
- Records created solely in preparation for litigation which are privileged from discovery under applicable rules of procedure or evidence.

Specific Written Consent means a written authorization containing the following:

- The name and signature of the employee authorizing the release of medical information.
- The date of the written authorization.
- The name of the individual or organization that is authorized to release the medical information.
- The name of the designated representative (individual or organization) that is authorized to receive the released information.
- A general description of the medical information that is authorized to be released.
- A general description of the purpose for release of the medical information.

- A date or condition upon which the written authorization will expire (if less than one year).

A toxic substance or harmful physical agent is defined as any chemical substance, biological agent (bacteria, fungus, virus, etc.) or physical stress (noise, heat, cold, ionizing radiation or non-ionizing radiation, hypo or hyperbaric pressure, etc.) which:

- Is regulated under federal law or rule due to a hazard to health.
- Is listed in the National Institute of Occupational Safety and Health (NIOSH) Registry of Toxic Effects of Chemical Substances (RTECS).
- Shows positive evidence of acute or chronic health hazard in human, animal or other biological test by or known to the employer.
- Has a Material Safety Data Sheet indicating that the substance may pose hazard to human health.

### **Procedure**

The Safety Manager will maintain applicable medical and exposure records for all employees. All requests to access medical and exposure records and analysis based on those records must be submitted to using the forms provided for that purpose.

Access to records is provided in a reasonable time, place and manner. Access to records must be provided in a reasonable time, place and manner. If access to records cannot reasonably be provided within fifteen (15) working days, E&B shall within the fifteen (15) working days apprise the employee or designated representative requesting the record of the reason for the delay and the earliest date when the record can be made available.

Personal identifiers (name, address, social security number, payroll number, etc.) are removed from records before access is granted. Whenever access is requested to an analysis which reports the contents of employee medical records by either direct identifier (name, address, social security number, payroll number, etc.) or by information which could reasonably be used under the circumstances indirectly to identify specific employees (exact age, height, weight, race, sex, date of initial employment, job title, etc.), personal identifiers must be removed before access is provided.

E&B, upon request, will assure the prompt access of representatives of the Assistant Secretary of Labor for Occupational Safety and Health to employee exposure and medical records and to analyses using exposure or medical records.

Except for a recognized collective bargaining agent, any designated representative must have the employee's written permission for access to exposure records and analyses. It is necessary however, for the union representative to specify the occupational need for access to records absent the employee's consent. Union representatives must have the employee's written permission to access medical records.

Copies of medical records are provided at no cost to employees. Whenever an employee or designated representative requests a copy of a record, that record must be provided at no cost.

Any review of medical or exposure records by an employee or union representative shall be done on his or her own time, outside of normal working hours, at a time mutually agreeable to the parties. The review will be conducted in person with the individual requesting access to the records.

The employee is entitled access to his or her medical records except when a physician determines that this knowledge would be detrimental to the employee's health as in such cases of terminal illness or psychological conditions. However, if the employee provides a designated representative with specific written consent, access to medical records must be provided even if the physician has denied the employee access to the records.

The authorized physician, nurse or other responsible health care personnel maintaining employee's medical records may delete the identity of anyone who has provided confidential information concerning the employee's health status but cannot withhold the information itself.

When an analysis of medical records identifies the employee, a physician may remove direct or indirect personal identification. If this cannot be done, the personally identifiable portions need not be provided to the person seeking such information.

Employees and their designated representatives will be permitted upon request access to past and present exposure data to toxic substances or harmful physical agents.

Copies of exposure records of other employees with past or present job duties or working conditions like or similar to those of the employee will also be provided upon request.

Any employee or designated representative is also permitted access to any record of exposure information which pertains to a new workplace or condition(s) to which the employee is being assigned or transferred.

### **Records Retention**

Medical records must be preserved and retained for the duration of employment plus 30 years.

- Employee exposure records must be retained for 30 years.

### **Transfer of Records Should the E&B Cease to Do Business**

Whenever E&B ceases to do business it shall transfer all records subject to this section to the successor employer. Whenever E&B either is ceasing to do business and there is no successor employer to receive and maintain the records, or intends to dispose of any records required to be preserved for at least thirty (30) years, E&B shall transfer the records

to the Director of the National Institute for Occupational Safety and Health (NIOSH) if so required by a specific occupational safety and health standard.

### **Employee Information**

Employees are informed of the provision of recordkeeping upon initial assignment and annually thereafter. Upon an employee's first entering into employment, and at least annually thereafter, information must be given to current employees of the existence, location, availability and the person responsible for maintaining and providing access to records and each employee's rights of access to these records.

The Access to Employee Exposure and Medical Records Standard (29 CFR 1910.1020) will be readily available for review by employees upon request.

A copy of the employee notice that will be used to comply with the employee information requirements is included with policy. This notice will be posted on those bulletin boards where other notices normally appear.

**AUTHORIZATION LETTER FOR THE RELEASE OF EMPLOYEE MEDICAL RECORDS**

I, \_\_\_\_\_ hereby authorize the \_\_\_\_\_  
(Full name of employee) (Name of Organization)

to release to E&B, the following medical record(s):

\_\_\_\_\_  
Give specific description of the information to be released)

I give my permission for the medical information to be used for the following purpose(s):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ I do not give permission for any other use or reason.

\_\_\_\_\_ I understand that this authorization expires twelve (12) months from today's date unless I specify a particular date less than twelve months which is \_\_\_\_\_

\_\_\_\_\_  
Signature of employee or  
his/her legal representative

\_\_\_\_\_  
Date of Signature

Reviewed on: \_\_\_\_\_ with: \_\_\_\_\_  
(Date) (Signature of Organization's Representative)

Copies given: Yes \_\_\_\_\_ No \_\_\_\_\_

**ACCESS TO MEDICAL/EXPOSURE RECORDS NOTICE**

Federal Regulation 29 CFR 1910.1020 requires us to inform you that E&B does keep records designated as Employee Exposure and Employee Medical Records.

The above regulation gives you the right to review those records with certain exceptions.

The records are maintained in the Safety Department and the Safety Manager is responsible for the records.

A copy of CFR 1910.1020 is available for viewing upon request to the Safety Manager.

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Employee Signature

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Date

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Supervisor Signature

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Date