

**WAC 296-802-099 Definitions. Access.** The right and opportunity to examine and copy an employee record.

**Analysis using exposure or medical records.** Any collection of data or a statistical study based on either:

(a) Information from individual employee exposure or medical records; or

(b) Information collected from health insurance claim records.

**Designated representative.**

(a) Any individual or organization to which an employee gives written authorization.

(b) A recognized or certified collective bargaining agent without regard to written employee authorization.

(c) The legal representative of a deceased or legally incapacitated employee.

**Employee exposure record.** A record containing any of the following kinds of information:

(a) 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.

(b) Biological monitoring results which directly assess the absorption of a toxic substance or harmful physical agent by body systems (such as the level of a chemical in the blood, urine, breath, hair, or fingernails) 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.

(c) Safety data sheets indicating that the material may pose a hazard to human health; or

(d) In the absence of the above:

(i) A chemical inventory or any other record that reveals where and when used and the identity (e.g., chemical, common or trade name) of a toxic substance or harmful physical agent.

(ii) Exposure records of other employees with past or present job duties or related working conditions.

**Employee medical record.**

(a) 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, including:

(i) Medical and employment questionnaires or histories (including job description and occupational exposures).

(ii) The results of medical examinations (preemployment, preassignment, periodic, or episodic) and laboratory tests (including chest and other X-ray examinations taken for purposes of establishing a baseline or detecting occupational illness, and all biological monitoring not defined as an "employee exposure record").

(iii) Medical opinions, diagnoses, progress notes, and recommendations.

(iv) First-aid records.

(v) Descriptions of treatments and prescriptions.

(vi) Employee medical complaints.

(b) An employee medical record does **not** include any of these types of medical information:

(i) Physical specimens (for example, blood or urine samples), which are routinely discarded as a part of normal medical practice.

(ii) Records concerning health insurance claims if maintained separately from the employer's medical program and its records, and

not accessible to the employer by employee name or other direct personal identifier, such as Social Security number or payroll number.

(iii) Records created solely in preparation for litigation that are privileged from discovery under applicable rules of procedure or evidence.

(iv) Records concerning voluntary employee assistance programs, such as alcohol, drug abuse, or personal counseling programs, if maintained separately from the employer's medical program and records.

**Exposure or exposed.** The contact an employee has with a toxic substance, harmful physical agent or oxygen deficient condition. Exposure can occur through various routes, such as inhalation, ingestion, skin contact, or skin absorption.

**First aid.** Any of the following are considered first aid:

(a) Using a nonprescription medication at nonprescription strength.

(b) Administering tetanus immunizations. Other immunizations, such as Hepatitis B vaccine or rabies vaccine, are considered medical treatment.

(c) Cleaning, flushing or soaking wounds on the surface of the skin.

(d) Using wound coverings such as bandages, Band-Aids™, or gauze pads.

(e) Using butterfly bandages or Steri-Strips™.

(f) Using hot or cold therapy.

(g) Using any nonrigid means of support, such as elastic bandages, wraps, or nonrigid back belts.

(h) Using temporary immobilization devices, such as splints, slings, neck collars, or back boards, while transporting an accident victim.

(i) Drilling a fingernail or toenail to relieve pressure.

(j) Draining fluid from a blister.

(k) Using eye patches.

(l) Removing foreign bodies from the eye using only irrigation or a cotton swab.

(m) Removing splinters or foreign material from areas other than the eye by irrigation, tweezers, cotton swabs or other simple means.

(n) Using finger guards.

(o) Using massages.

(p) Drinking fluids for relief of heat stress.

**Harmful physical agent.** Any physical stress such as noise, vibration, repetitive motion, heat, cold, ionizing and nonionizing radiation, and hypo- or hyperbaric pressure which:

(a) Is listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS); or

(b) Has shown positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer; or

(c) Is the subject of a safety data sheet kept by or known to the employer showing that the material may pose a hazard to human health.

**Health professional.** A physician, occupational health nurse, industrial hygienist, toxicologist, or epidemiologist, who provides medical or other occupational health services to exposed employees.

**Record.** Any item, collection, or grouping of information. Examples include:

(a) Paper document.

(b) Microfiche.

(c) Microfilm.

- (d) X-ray film.
- (e) Computer record.

**Specific chemical identity.** Any other information that reveals the precise chemical designation of the substance, such as:

- (a) Chemical name; or
- (b) Chemical abstracts service (CAS) registry number.

**Specific written authorization.** A written authorization containing at least the following:

- (a) The name and signature of the employee authorizing the release of medical information.
- (b) The date of the written authorization.
- (c) The name of the individual or organization that is authorized to release the medical information.
- (d) The name of the designated representative (individual or organization) that is authorized to receive the information.
- (e) A general description of the medical information that is authorized to be released.
- (f) A general description of the purpose for the release of the medical information.
- (g) A date or condition upon which the written authorization will expire.

**Toxic substance.** Any chemical substance or biological agent, such as bacteria, virus, and fungus, which is any of the following:

- (a) Listed in the latest edition of the National Institute for Occupational Safety and Health (NIOSH) *Registry of Toxic Effects of Chemical Substances* (RTECS).
- (b) Shows positive evidence of an acute or chronic health hazard in testing conducted by, or known to, the employer.
- (c) The subject of a safety data sheet kept by or known to the employer showing the material may pose a hazard to human health.

**Trade secrets.** Any confidential information that is used in an employer's business and gives an opportunity to gain an advantage over competitors who do not know or use it. It can be a:

- (a) Formula.
- (b) Pattern.
- (c) Process.
- (d) Device.
- (e) Information.
- (f) Collection of information.

[Statutory Authority: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060. WSR 18-22-116, § 296-802-099, filed 11/6/18, effective 12/7/18.]