

## **Disclosure of Personal Health Information to the WCB**

The Workers' Compensation Act (WCA), the Alberta Freedom of Information and Protection of Privacy Act ("FOIP") connect with the Health Information Act (HIA) to govern the collection, use and disclosure of personal health information. This notice is to clarify the WCB's authority to collect personal health information, without the consent of the individual.

The WCA authorizes the Workers' Compensation Board to collect an injured worker's personal health information.

- Section 34(3) of the WCA states: "where an injured worker is attended to in a hospital or other treating agency, the Board may request the hospital or treating agency to furnish it with a report and, on receiving such a request, the administrator or person in charge of the hospital or treating agency shall ensure the request is forthwith complied with." Physicians are similarly compelled to provide information under S. 34(1) of the WCA. (S.35(1)(p) of the HIA)

The FOIP Act permits public bodies to collect personal health information about an individual.

- Section 34 of FOIP Act permits public bodies to collect personal information about an individual from third parties, and hence, without the individual's consent.

If a public body is subject to FOIP, and not HIA, S.40(1)(e) of the FOIP Act permits the public body to disclose personal information where disclosure is authorized or required by an enactment of Alberta or Canada. Accordingly, FOIP permits disclosure if authorized or required by the WCA.

The HIA does not require consent to provide health information to the WCB. Section 35(1) of the HIA sets out certain circumstances that allow custodians to disclose diagnostic, treatment and care information without consent of the individual which include:

- S. 35(1)(b) of the HIA - disclosure to a person who is responsible for providing continuing treatment and care to an individual. Under section 80 of the WCA, the WCB is required to determine all questions as to the necessity, character and sufficiency of, and the amount payable, in respect of any medical aid provided to a worker who suffers an accident. The WCB is responsible for providing continuing treatment and care in the event of a work related injury and requires health information to fulfill that responsibility
- S.35(1)(p) of the HIA - disclosure if authorized or required by an enactment of Alberta or Canada. Sections 17, 18, 20 and 34 (above) of the WCA empower the WCB to require disclosure.

For the above reasons it is not necessary for the WCB to obtain consent to collect health information. The WCB's authority to collect health information without consent was supported by the Information and Privacy Commissioner in Investigation Report 98-IR-001 issued in June of 1998. That report is available at:

<http://www.oipc.ab.ca/ims/client/upload/98-IR-001.pdf>

If you require further information about the WCB's authority to collect personal health information please call the WCB's FOIP Office at (780) 498-3876.