

**Disclosure of
Medical Information to
The Workers' Compensation Board
of Alberta:**

**A Guide for
Alberta Physical Therapists**

This Guide, entitled “Disclosure of Medical Information to the Workers’ Compensation Board of Alberta”, was prepared by The Workers’ Compensation Board of Alberta in consultation with the College of Physical Therapists of Alberta.

The purpose of the guide is to assist physical therapists in understanding their requirements to report work-related injuries to the WCB as outlined in the Workers’ Compensation Act. The Guide provides general direction and outlines how other privacy legislation affects these requirements.

1. WCB Reporting Requirements

What are the rules about submitting reports to the WCB?

- Anyone practicing the healing arts in Alberta is required by law to forward a report to the WCB¹ within 2 days of the first attendance of a worker if the injury:
 - will, or is likely to, disable the worker for more than the day of the accident and/or if complications may contribute to future disablement, and
 - at any time when requested by the WCB. Simply put, any Worker requiring Physical Therapy treatment for a work-related injury falls under the above criteria

2. Hospital Physical Therapists

I work in a hospital. Do I still need to submit reports?

- Where a worker is attended to in a hospital, the requirement to provide information to the WCB, as established in the Workers' Compensation Act (WCA), still applies. The WCB Hospital Out-Patient Physical Therapy and Occupational Therapy Guidelines clearly outline the reporting requirements.

3. Informed Consent

Do I need the injured worker's consent to release medical information to the WCB?

- The WCA² outlines the requirements for mandatory reporting and gives the WCB authority to both require reports and compel the production of information.
- The injured worker's consent is not required where the information provided relates to the worker's disability, or compensation of the disability.
- Although applicable privacy legislation, such as the Health Information Act (HIA), would normally require a physical therapist to obtain a patient's consent before releasing information to a third party, s. 35 of HIA allows for disclosure without consent where the disclosure is required or authorized pursuant to another enactment.
- The Privacy Commissioner has confirmed that the WCA is "another enactment" for the purposes of s. 35 of HIA; therefore, disclosure without consent is authorized pursuant to the WCA, as provided for in the legislation.
- The information requested or required can be sent to the WCB without the knowledge or consent of the worker.

¹ Workers' Compensation Act, RSA 2000, Chapter w-15, section 34 (1)

² Workers Compensation Act, RSA 2000, Chapter w-15, sections 17(5), 18(2), 20, and 34

4. What if I am a Custodian under the Health Information Act?

- Under the HIA, “custodian” is defined to include those health services providers who are paid, directly or indirectly, under the Alberta Health Care Insurance Plan (AHCIP).
- Where a PT is providing treatment to a worker under the WCB scheme, the services are being paid for by the WCB and not the AHCIP. Accordingly, the PT will not normally be considered a “custodian” in these circumstances.
- In some circumstances, a PT may be providing treatment to an injured worker under the WCA, but may also be providing treatment to the same individual for some other unrelated injury. Where the PT is being compensated by both the WCB and the AHCIP, the PT will be considered a “custodian” under HIA.
- If the PT is also a “custodian”, the information created by the PT in this capacity may be shared with the WCB without first obtaining the patient’s consent, but only if the information relates to the patient’s work-related disability and the compensation of that disability.

5. Third Party Requests

What are my obligations regarding the release of medical information to a third party?

- The current contract WCB has with physical therapists (i.e. the Physical Therapy Agreement³) provides that the worker’s file is the property of and under the control of the PT.
- As such, the release of information to any third party other than the WCB is governed by the PT’s obligations under the common law, the Physical Therapy Profession Act, and applicable privacy legislation such as the Health Information Act, the Personal Information Protection Act or the Freedom of Information and Protection of Privacy Act. Provided that the PT adheres to his or her obligations in this regard, additional permission from the WCB to release this information is not required.

6. Informing Workers

What do I tell an injured worker about release of his/her medical information?

- It is strongly recommended that the injured worker be advised that his or her personal and medical information will automatically be shared with the WCB throughout the treatment process.

³ 2004 Physical Therapy Contract, section 13.01

- It is recommended that the PT include such a statement on the clinic consent form. If the patient does not wish his or her information to be shared with the WCB, he or she then has the option to refuse treatment. This practice may minimize the potential for misunderstandings and may minimize the potential for complaints being made about inappropriate disclosure by the PT.
- It is also recommended that the PT provide the injured worker with a copy of the information that is provided to the WCB. This will ensure that the patient's right of access to the information is not delayed or compromised.

Further questions?

Questions relating to disclosure of medical information to the WCB may be addressed to WCB Health Care Services at 780-498-3217.

Appendix 1 :

In Order 98-002, the FOIP office considered a host of issues relating to a physician providing the WCB with a complete copy of a worker's medical chart in a case where the worker's consent had not been obtained. The Commissioner stated:

"I must give the Public Body {the WCB} considerable latitude in deciding that the collection of personal information is necessary, relative to the disability and compensation. Provided this determination is not patently unreasonable, it is not likely that I would interfere."

In a further case, one of the WCB's medical consultants sent a copy of his consultation report to the worker's family physician without his knowledge or consent. That action resulted in a complaint to the College of Physicians and Surgeons. In the result, the College fully supported the disclosure of the report even in the absence of patient consent based largely on the legislative framework of the WCA, Freedom of Information and Protection of Privacy Act and the Health Information Act.